MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
July 16, 2002

7:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 7:03 p.m., Tuesday, July 16, 2002, in the Board Room, York Hall, by Chairman Donald E. Wiggins.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zaremba, Sheila S. Noll, Donald E. Wiggins, James S. Burgett, and Thomas G. Shepperd.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

Invocation. Pastor M. A. Truckenmiller from Tabb Church of God gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Wiggins led the Pledge of Allegiance.

HIGHWAY MATTERS

Mr. John Mazur, Assistant Resident Engineer, Virginia Department of Transportation, appeared to discuss highway matters of interest to the Board of Supervisors. He reported that progress on Route 621 (Dare Road) turn lane project at Constitution Drive was underway. Completion should be in a couple of months. He informed Mr. Wiggins he was still working on the previous issue on Wildey Road.

Mr. Burgett reported that at the intersection of Vine Drive and Lindsay Landing Lane, the road was breaking up due to the heavy construction vehicles working the sewer project. He stated that on Lakeside Drive, where the new subdivision was being developed, there was a depression in the road that needed repair. He mentioned the Commercial Vehicle Parking Ordinance and asked VDOT to re-paint the center lines in York Crossing as they had been.

Mr. Shepperd thanked Mr. Mazur for responding so quickly to his request for road repairs in the Wilson Farm area. He mentioned a pothole on Route 134 that was in need of repair.

Mr. Mazur explained the sinkhole on Route 134 was temporarily filled in with gravel and stone, and a pipe underneath had become disengaged which caused the erosion. He encouraged phone calls to report these types of safety problems.

Mrs. Noll mentioned she was still looking for reflectors at the Route 17/171 intersection.

Mr. Mazur replied that the request had been forwarded on to the Traffic Engineering Division.

Mr. Zaremba inquired what the VDOT cycle was for paving subdivision streets that have been incorporated into the VDOT system. He asked about resurfacing and how often a subdivision would be resurfaced.

Mr. Mazur replied that resurfacing depended on the condition of the subdivision, but as a rule of thumb, possibly ten to fifteen years. He then explained the conditions necessary for resurfacing.

Mr. Zaremba asked for VDOT's help repairing a pothole on Royal Grant Drive that is filled in every few months, but is not permanently repaired. He asked that they permanently fix the road.

Chairman Wiggins thanked Mr. Mazur for his help this past week with the drainage problems in the York Point area. He stated he was delighted that the drainage problems in that area were now being addressed by VDOT.

PRESENTATIONS

YORK COUNTY BOARDS AND COMMISSIONS

Chairman Wiggins introduced and welcomed the following newly appointed members to York County Boards and Commissions, and presented them with Boards and Commissions Handbooks and York County pins.

Nicholas F. Barba	Planning Commission
Michael A. Bossie	Stormwater Advisory Committee
Richard H. Carver	Stormwater Advisory Committee
Lucien Lafrenaye	Stormwater Advisory Committee
Beth Lail	Stormwater Advisory Committee
Matthew B. Teasdale	Stormwater Advisory Committee

EMPLOYEE RECOGNITION PROGRAM

Chairman Wiggins congratulated Ms. Stella M. Hill for having attained 25 years of service with the County, and then presented Ms. Hill with a 25-year service pin and certificate.

YORK COUNTY ARTS COMMISSION

Ms. Anne B. Smith Director of Community Services, made a presentation on the York County Arts Commission, which is responsible for reviewing work of arts organizations and making recommendations to the Board for its financial support. The Commission's recommendation includes $53,500 for FY2003, and there is a state grant of an additional $5,000. The Board then viewed a video clip from Channel 46 entitled Showcase of the Arts.

CITIZENS COMMENT PERIOD

Mrs. Sheila McMahon, 105 Rich Road, spoke on concerns regarding her property and the new Wal-Mart. She stated when Wal-Mart was first proposed, she met with Mrs. Noll and other County officials, and promises were made that have not been carried out. She indicated problems with the appearance, lighting, and the trash surrounding the shopping center. She then provided photographs of her property to the Board illustrating her backyard view of Wal-Mart.

Mr. Pat McMahon, 105 Rich Road, voiced his concerns with regard to the Wal-Mart located behind his home. He felt the promises that were made to the residents in that area were not carried out, and no one wanted to talk about the issues. He was told there would be two retention ponds; now there is one. He voiced concern with the aeration in order to keep the mosquitoes away. He stated the residents were told a traffic light on Victory Boulevard by Wal-Mart would not be installed, but one has been erected, and he felt it was a hazard. He suggested a sign that reads "Do not block Rich Road" be erected.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett reported on a meeting of the Hampton Roads Planning District Commission to discuss the regional approach to cable TV franchises in the future. He explained some of the advantages of a franchise agreement. He reminded the Board that he would be on vacation next week, and that the Assistant County Attorney may possibly be out at the same time on maternity leave.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds reminded the Board of its next regularly scheduled meeting on August 6, 2002, with a work session scheduled on August 13 to discuss Personnel Policies and Procedures, the Purchasing Ordinance, and Board Policies. He addressed the negotiations with the Watermen's Museum, including easement acquisitions, property transactions, a replacement deck and pier, and compensation for their loss of revenue from any ships that dock at the museum pier.

Discussion ensued regarding the ownership of the property surrounding the Watermen's Museum.

Mr. Zaremba encouraged the citizens to watch the replay of this evening's work session for more details of the riverfront revitalization. He suggested that the information on the waterfront be included in the next issue of Citizen's News.

MATTERS PRESENTED BY THE BOARD

Mr. Zaremba spoke on the July 4th celebrations held in Yorktown, and stated he felt that dignitaries should be invited to attend the July 4th celebrations in the future since Yorktown is where the Battle of Independence was won. He discussed the subdivision of Old Quaker Estates and the residents' wells that are beginning to produce unacceptable water or no water at all. He asked staff to look into the matter and advise the residents when connection to city water would become available.

Meeting Recessed: At 7:59 p.m. Chairman Wiggins declared a short recess.

Meeting Reconvened: At 8:09 p.m. the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS

AMENDMENT TO YORK COUNTY CODE: SEWAGE DISPOSAL AND SEWERS

Mr. McReynolds made a presentation on proposed Ordinance No. 02-6(R-1) to increase the initial sewer connection and maintenance fees, delete unnecessary language, and adopt the State's Board of Health Sewage Handling and Disposal Regulations.

Mr. Shepperd asked for an explanation of the timeframe for a builder to begin construction being reduced from within 90 days to within 30 days of the sewer facilities' completion.

Mr. Brian Woodward, Chief of Utilities, stated the goal of changing this section of the ordinance is to provide the homeowner with a finished product. He explained that when builders are released into a development too soon before the developer has completed the site improvements, a conflict in the construction sequence of events occurs. He reviewed some of the problems and conflicting interests and stated the goal was to get the developer to finish as much of the construction as possible prior to releasing the builders into the development. He further explained that the 30 days would coincide with the sewer inspection process.

Discussion followed concerning the issuance of a building permit if it is determined that the public sewer facilities will be completed within 30 days, a proposed reduction in time from 90 days, and the nature of complaints received by staff concerning the existing 90-day timeframe.

Chairman Wiggins called to order a public hearing on proposed Ordinance 02-6(R1) which was duly advertised as required by law and is entitled:

> AN ORDINANCE TO AMEND VARIOUS SECTIONS OF CHAPTER 18.1, SEWAGE DISPOSAL AND SEWERS, YORK COUNTY CODE, INCREASING THE INITIAL CONNECTION FEE AND MAINTENANCE FEES, DELETING UNNECESSARY LANGUAGE, AND ADOPTING THE COMMONWEALTH OF VIRGINIA STATE BOARD OF HEALTH SEWAGE HANDLING AND DISPOSAL REGULATIONS

Mr. Lamont Myers, 108 Pheasant Watch, appeared to suggest that in cases where the builder and developer are the same entity, it was up to them to make their customers happy. He proposed that for those entities the 90 days remain in place. He explained the County had control with the Certificate of Occupancy process.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mr. Burgett wanted to be sure of the ramifications of the proposed amendment to Section 18.1-63(c)(1) of the proposed ordinance before its adoption.

Mrs. Noll stated the Board could amend it at any time.

After further discussion, by consensus the Board agreed to retain the existing 90-day period in Section 18.1-63(c)(1).

Discussion then ensued concerning the sewer fee increases and the actual cost of sewer line construction versus what the builder/homeowner pays to connect to the facilities.

Mrs. Noll then moved the adoption of proposed Ordinance 02-6(R-1) which reads:

AN ORDINANCE TO AMEND VARIOUS SECTIONS OF CHAPTER 18.1, SEWAGE DISPOSAL AND SEWERS, YORK COUNTY CODE, INCREASING THE INITIAL CONNECTION FEE AND MAINTENANCE FEES, DELETING UNNECESSARY LANGUAGE, AND ADOPTING THE COMMONWEALTH OF VIRGINIA STATE BOARD OF HEALTH SEWAGE HANDLING AND DISPOSAL REGULATIONS

BE IT ORDAINED by the York County Board of Supervisors this the 16th day of July, 2002, that Chapter 18.1, Sewage Disposal and Sewers, York County Code, be and it is hereby amended to read and provide as follows:

ARTICLE I. IN GENERAL

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Sec. 18.1-2. Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings stated in this section:

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Soil absorption systems, general. On-site sewage disposal systems which utilize the soil to provide final treatment and disposal of effluent from a septic tank in a manner that does not result in a point-source discharge and does not create a nuisance, health hazard or ground or surface water pollution.

Sec. 18.1-11. (Removed in its entirety)

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ARTICLE II. OPERATING PROCEDURES

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Sec. 18.1-30. Prohibitions and limitations on use of the public sewer system.

(a) No person shall discharge or deposit or cause or allow to be discharged or deposited into the public sewer system any wastewater which contains the following:

(1) *Oils and grease.*

a. Oil and grease concentrations or amounts from users violating federal, state, or HRSD pretreatment standards.

b. Wastewater from users containing floatable oil, wax, fats, or grease concentration of mineral origin of more than one hundred (100) milligrams per liter whether emulsified or not.

(2) *Any gasoline, benzene, naphtha, solvent, fuel oil or a liquid, solid, or gas* that may cause flammable or explosive conditions, including, but not limited to, wastes-

treams with a closed cup flashpoint of less than one hundred-forty degrees (140º) Fahrenheit using test methods specified in 40 CFR 261.21.

(3) *Noxious material.* Noxious or malodorous solids, liquids, or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into the system for its operation, maintenance, and repair.

(4) *Improperly shredded garbage.* Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewer system, with no particle greater than one-half (½") inch in any dimension.

(5) *Radioactive waste.* Radioactive wastes or isotopes of such half-life or concentration that they do not comply with regulations or orders issued by the appropriate authority having control over their use and which will or may cause damage or hazards to the system or personnel operating the system.

(6) *Solid or viscous wastes.* Solid or viscous wastes which will or may cause or contribute to obstruction in the flow of wastewater in a sewer, or otherwise interfere with the proper operation of the system. Prohibited materials include, but are not limited to: grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, mud, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, seafood processing by-products, and similar substances.

(7) *Unpolluted waters.* Any unpolluted water including, but not limited to: water from cooling systems or of storm water origin, which will increase the hydraulic load on the system.

(8) *Corrosive wastes.* Any waste which will cause corrosion or deterioration of the system. All wastes discharged to the system shall have a pH value in the range of five (5) to ten (10) standard units. Prohibited materials include, but are not limited to: acids, sulfides, concentrated chloride and fluoride compounds, and substances which will react with water to form acidic products.

(b) No person shall discharge or convey or permit or allow to be discharged or conveyed to the public sewer system any wastewater containing pollutants of such character or quantity that will:

(1) Not be susceptible to treatment or cause interference with the process or efficiency of the system.

(2) Constitute a hazard to human or animal life or to the stream or water course receiving the wastewater treatment plant effluent.

(3) Violate federal, state, or HRSD pretreatment standards.

(c) No person owning vacuum or septic tank pump trucks or other liquid wastewater transport trucks shall discharge directly or indirectly such wastewater into the public

sewer system, unless such person shall first have applied for and received a permit from the county and HRSD for each vehicle. All applicants for this permit shall complete such forms as required by the county and HRSD, pay any required fees, and agree in writing to abide by the provisions of this section and any special conditions or regulations established by the county and HRSD. Such permit shall be limited to the discharge of domestic wastewater containing no industrial wastewater. The county and HRSD shall designate the locations and times where such trucks may be discharged and may refuse to accept any truck load of wastewater where it appears that the wastewater could cause interference with the effective operation of the wastewater system.

(d) No person shall discharge any other holding tank wastewater into the system unless he shall have applied for and have been issued a permit by the county and HRSD. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each location of discharge. This permit shall include the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefor and shall comply with the conditions of the permit. No permit, however, will be required to discharge domestic wastewater from a recreational vehicle or a marine vessel holding tank, providing such discharge is made into an approved facility designed to receive such wastewater.

(e) Grease, oil, and sand traps shall be provided in accordance with the following:

(1) Establishments involved in the preparation of food for commercial purposes shall provide grease interceptors or traps. Grease, oil, and sand interceptors or traps shall be provided by others when necessary for the proper handling of liquid wastes containing grease in excessive amounts, sand and other harmful ingredients, except that such interceptors or traps will not be required for dwelling units.

(2) All interceptors or traps shall be of a type and capacity approved by the building official, and shall be located so as to be readily and easily accessible for cleaning and inspection. They shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures and shall be of substantial construction, gastight, watertight, and equipped with easily removable covers.

(3) All grease, oil, and sand interceptors or traps shall be maintained by the user in continuously efficient operation at all times.

(4) Approval of proposed facilities or equipment by the health officer or building official does not, in any way, guarantee that such facilities or equipment will function in the manner described by their constructor or manufacturer; nor shall it relieve a person, firm, or corporation of the responsibility of enlarging or otherwise modifying such facilities to accomplish the intended purpose.

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ARTICLE III. PRIVATE SEWAGE DISPOSAL SYSTEMS

Sec. 18.1-40. Private sewer systems—Generally.

(a) *Certain systems prohibited.* The installation of private sewer systems other than soil absorption systems approved by the latest edition of the Commonwealth of Virginia State Board of Health Sewage Handling and Disposal Regulations and the York County Sanitary Sewer Standards and Specifications are prohibited.

(b) *When soil absorption systems are permissible.* When any lot or parcel has been legally created or can be created by an otherwise approvable subdivision, and lies in an area where no public sewer which can serve the property is available, the building sewer may be connected to an approved soil absorption system if the site is determined by the health officer to be suitable for such a system to operate properly and in accordance with the provisions of this chapter.

(c) *Provision of primary and secondary absorption areas.* Every lot or parcel of land proposed for development where an approvable soil absorption system is proposed shall have and provide both a primary and secondary absorption area. The secondary absorption area shall be equal in size to the primary area. Both the primary and required secondary absorption areas shall be located outside of any RPA that may apply to the property under the terms of section 24.1-372 of the county zoning ordinance. The secondary absorption area shall be used only in the event the primary absorption area fails and not for the purpose of expansion of the primary absorption area in order to accommodate additions to or enlargement of, the structure or structures served by the system.

(d) *Soil absorption systems provisions for building.* Before commencement of construction of an approvable soil absorption system , the owner shall first obtain a written permit signed by the health officer. The application for such permit shall be on forms furnished by the Health Department, which the applicant shall supplement by any plans, specifications, and other information deemed necessary by the health officer. The type, capacity, location, and layout of a soil absorption system shall comply with all requirements of the Department of Health of the Commonwealth of Virginia and of this chapter. The approved permit issued by the health officer, along with any supporting data must be submitted with the application for a building permit.

(e) *Same—Inspection by health officer.* An approved soil absorption system shall not be utilized until the installation is completed to the satisfaction of the health officer. The health officer shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the health officer when the work is ready for final inspection and before any underground portions are covered.

(f) *Same —Maintenance.* The owner shall operate and maintain the soil absorption system in a sanitary manner at all times and in accordance with any state health department requirements and the requirements of this chapter including any special conditions which may have been placed on the permit by the health officer. Each septic tank and/or pumping chamber should either be pumped out and the solids removed at least once every five (5) years, be inspected by a qualified person every five (5) years and pumped if necessary, or install a filter approved by the Health Department.

(g) *Same—Correction of violations or malfunctions.* When notified by the health officer or the county of a violation of any provision of this chapter or of a malfunction, the owner of a soil absorption system shall complete the prescribed corrective actions within sixty (60) days. Failure to make such correction shall be a violation of this chapter.

(h) *Use of private systems prohibited.* Nothing in this article shall be construed to permit the continued use of a private sewer system if connection to a public system is required by this chapter.

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ARTICLE IV. CONSTRUCTION AND EXTENSION OF PUBLIC SEWER SYSTEMS

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Sec. 18.1-52. Application, certificate to construct, inspection and payment of fees required.

(a) *Certificates to construct.* Construction of or extensions to public sewer systems shall not begin until a certificate to construct has been issued by the county administrator. The construction of building sewers which serve multiple dwellings or structures or which extend off-site shall also require a certificate to construct.

(b) *Applications.* Applications for a certificate to construct shall be submitted to the County and accompanied by a minimum of four (4) copies of plans and specifications prepared by a qualified licensed engineer or land surveyor practicing within the areas of competence prescribed by section 54-17.1 et seq of the Code of Virginia together with any other relevant contract documents and a plan review fee of one-hundred dollars ($100.00).

(c) *Issuance.* Upon approval of the plans, specifications, and contract documents and upon payment of required inspection fees, the county administrator shall issue a certificate to construct.

(d) *Fees.* A certificate to construct shall not be issued until inspection fees in the amount of two hundred and seventy-five dollars ($275.00) plus one dollar and 50 cents ($ 1.50) per foot for every foot of eight-inch or larger gravity sewer installed and one dollar and 50 cents ($ 1.50) per foot for every foot of two-inch or larger force main installed and one dollar and 50 cents ($ 1.50) per foot for every foot of vacuum sewer installed have been paid. In the case of building sewers required to be inspected pursuant to the provisions of section 18.1-24 of this chapter, an inspection fee shall be charged in the amount of one hundred dollars and fifty dollars ($ 150.00) plus one dollar and 50 cents ($ 1.50) per foot for every foot of building sewer installed. The fees set forth in this subsection may not be reduced and are not refundable.

(e) *Inspection.* The installation of public sewer systems and building sewers required to have a certificate to construct shall be inspected by the county and no part of such facilities shall be covered or obscured prior to inspection and approval by the county.

(f) *Service laterals.* Service laterals, as approved, shall be provided by the applicant and installed at the time of construction.

(g) *Connection to system regulated.* No connection between the existing public sewer system and new sewer construction shall be made until all required connection fees have been paid and all such construction has been approved by the county.

Sec. 18.1-53. Construction and extension.

(a) The governing body may in its discretion extend the public sewer system to areas of the county which have not been previously served.

(b) The governing body may permit the extension of the public sewer system by a developer. Public sewer extensions serving less than three connections may be approved administratively by the county administrator or his designee subject to the execution of a sewer extension agreement approved to form by the County Attorney. Extensions serving three or more connections shall be at the request of the developer and shall be made pursuant to a contract authorized by the governing body, executed by the county administrator on behalf of the county, and approved as to form by the county attorney between the developer and the county. The contract shall include terms providing for the amount of all fees to be paid to the county and providing that the fees may be paid in a lump sum or, may be paid with respect to any development phase or section prior to the issuance of any building permits with respect to that phase or section. The contract shall also set forth any cost-sharing and provide that, upon completion and approval of the construction of such facilities, they shall become the property of the county. Such contracts shall be executed by all parties prior to the issuance of a certificate to construct. The provisions of this subparagraph apply to extensions which have not been approved by the county on the date of adoption of this section. The governing body may authorize an extension based on preliminary fee and cost-sharing information, and may authorize the County Administrator to execute agreements required by this section at some later time, provided however: (1) that the number of connections to the system approved by the governing body shall not later be increased more than (10%) without authorization of the governing body; and (2) that the standard connection fees, credits, and other fees and policies in effect at the time of execution of the agreement, as established by the governing body, shall be the basis for computing such fees.

(c) All contractors installing facilities of the county shall be approved by the county.

(d) For all construction under paragraph (b) above the location, type, and size of any facilities must comply with county standards and with plans established by the county for future sewer construction. Except as otherwise provided in section 18.1-54, the entire expense of construction shall be born by the developer.

Sec. 18.1-54. Cost sharing in public sewer construction.

(a) It is the intent of this section to discourage the development of facilities outside designated primary service areas and to provide some assistance to a developer when facilities are constructed in complete accordance with public sewer phasing and construction plans. Recognizing that the developer will incur a certain level of expense to properly bring sewer service to a development, the intent is not to reimburse the developer for that expense. In all cases the developer must make an economic decision. The purpose of this section is to provide a degree of certainty to the cost of sewer service and to set forth those conditions under which the county will permit private construction of public sewer systems.

(b) Upon request and under certain conditions, the county may share in the cost of providing public sewer when application for construction is made by a developer. The extent to which the county participates will be based on certain factors designed to maximize

and channel limited public funds for sewer construction into those areas where sewer can be provided most effectively to promote the public health and welfare. Those factors are:

(1) The extent to which the sewer facilities are oversized at the request of the county to provide future use capacity.

(2) The extent to which the proposed development is within or outside of a designated primary service area.

(3) The extent to which the facilities consist of system facilities as opposed to local facilities.

(c) Within the limits of funds available for sewer construction, the county will share costs if requested by the developer as follows:

(1) The total cost of local facilities shall in all cases be borne by the developer.

(2) When proposed development is to be located within a primary service area, the county will pay the additional construction cost of installing or oversizing system facilities required by the county for future use capacity or other needs. The county may offset its cost by deducting any system facility connection fees due to it from the developer. The county share shall be the difference between the estimated cost of the facilities necessary for future use and the cost of local facilities and system upgrades necessary to serve the development. The developer shall bear all design costs. The estimated costs shall be based upon current unit charges for sewer construction and shall be agreed to between the developer and the county.

(3) When proposed development is to be located outside a primary service area, the cost of installing or oversizing system facilities for future use capacity or other needs shall be borne by the developer. In addition to the cost of construction, the developer will be liable for a connection charge at the time of connection of the extension to public sewer facilities. Such fee shall be equal to the total initial connection fees due from the development without credit or reduction for the construction of local or system facilities or other costs paid by the developer.

(4) If no primary service areas have been established by the governing body, all proposed development shall be deemed to be within a primary service area.

(d) If sufficient county funds are not available for sewer construction to enable the county to contribute fully as set forth in subsection (c) 2), then other sums may be negotiated on a case-by-case basis. In any event, the final sum to be contributed by the county to the construction and/or the total amount of connection fees due to the county, shall be set forth in the contract required by section 18.1-53.

(e) Nothing in this section is to be construed to prohibit or restrict the governing body from extending or participating in the extension of the facilities of the county at the county's cost or on a different cost sharing basis than set forth in this section should the governing body determine that such an arrangement is in the county's best interest and furthers the goals of economic development or providing affordable housing opportunities.

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ARTICLE V. PUBLIC SEWER CONNECTIONS AND CONNECTION FEES

Sec. 18.1-62. Connection requirements; timing; and fees.

(a) The owner of any premises having access to facilities of the county, the construction of which facilities was completed after January 1, 1992, shall be required to connect to the public sewer system. Connection fees shall be paid within ninety (90) days and connection made within one-hundred twenty (120) days of notification that service exists. The applicable fee shall be the total initial connection fee set forth in section 18.1-64 of this chapter.

(b) Any owner failing to connect to the facilities of the county as required by paragraph (a) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than fifty dollars ($50). Each day that such failure continues shall constitute a separate offense. In addition, such owner shall be required to pay the regular connection fee as set forth in section 18.1-64 of this chapter.

(c) The owner of any premises having service available by means of facilities of the county, the construction of which was completed after January 1, 1992, may connect to the public sewer system or voluntarily elect to pay the applicable connection fee and not connect. If the connection is made or arrangement for payment made within ninety (90) days of notification that service exists, the fee shall be the same fee as that imposed on owners who connect under paragraph (a) of this section. After such ninety-day period, the owner shall be required to pay the total regular connection fee.

(d) The owner of premises having access to, or service available by, facilities of the county, the construction of which was completed prior to January 1, 1992, may connect to such facilities or voluntarily elect to pay the applicable connection fee and not connect. If connection or payment is arranged or made, the fee shall be the total initial connection fee set forth in section 18.1-64 of this chapter.

(e) The connection requirements, fees, and times set forth in this section shall not apply where the county administrator has determined that public sewer service is not available to abutting property due to the nature of, or limitations on, the facilities of the county. For purposes of this section, property which abuts a public road owned and maintained by the Commonwealth of Virginia or the county and which is separated from the facilities of the county by the surfaced area of such road, shall be deemed not to have public sewer available unless a lateral has been installed under the pavement which can serve the property.

(f) When extensions of the facilities of the County are made pursuant to Section 18.1-53(b), the owner of any premises having access to, or service available by, the facilities of the County and having, at the time of the extension, an operating soil absorption system, which has been inspected and approved by the Health Department, may connect to such facilities and pay the applicable initial connection fee as set forth in Section 18.1-64 of this chapter at the time the owner elects to connect. Should the owner of such premises receive written notification from the Health Department of a failing system, the provisions in Section 18.1-62(a) and (b) shall apply and the applicable time limits shall begin to run on the date of receipt of such notice.

Sec. 18.1-63. Application for connection; permit required.

(a) No person shall connect any premises with the facilities of the county without first obtaining a permit to do so from the county administrator. The owner of the premises, or such owner's authorized agent, shall make application therefore on forms furnished by the county. All applications shall clearly indicate the activities on the premises for which the service to be rendered by the public sewer system will be used.

(b) No permit for connection shall be issued until all required fees have been paid and the manner of connection (including the qualifications of the person making the connection) have been approved.

(c) No building permit for a structure that will connect to the public sewer facilities of the county shall be issued until the construction of the public sewer facilities of the county has been completed and approved. Prior to the completion of construction, a permit may be issued if:

(1) In the case of residential buildings, the county administrator determines that completion of construction of the required public sewer facilities to county standards is probable within ninety (90) days; or,

(2) In the case of commercial or industrial buildings, the county administrator determines that completion of construction of the required public sewer facilities to county standards is probable within one hundred eighty (180) days.

(3) In the case of residential buildings that are in the service area of a County Sewer Extension Project, the county administrator determines that completion of construction of the required public sewer facilities to the county standards is probable within one hundred eighty (180) days.

Sec. 18.1-64. Connection fees established.

(a) Any person required or desiring to connect to the facilities of the county shall, unless otherwise provided in this chapter, pay the connection fees set forth in the schedule which follows as a part of this section. Such fees shall be paid at such time as required by this chapter. The connection fee to be paid shall be the indicated total initial fee or total regular fee as required. The connection fee shall not include the actual cost of connection, which shall be borne by the applicant. Existing commercial or industrial connections may upgrade the connection size by paying the initial connection fee applicable to the larger size connection. A credit will be given for connection fees previously paid. Columns entitled "Local Facility Charge" and "System Facility Charge" are used only for the purposes referred to in other sections of this chapter:

CONNECTION FEE SCHEDULE [18.1-64(a)]

	Initial Connection Fee			*Regular Connection Fee*		
	(a)	*(b)*	*(c)*	*(d)*	*(e)*	*(f)*

Type of Connection	*Local Facility Charge*	*System Facility Charge*	*Total Initial Fee*	*Local Facility Charge*	*System Facility Charge*	*Total Regular Fee*
A. Single-family Detached Dwelling	$1,000	$2,300	$3,300	$3,025	$5,600	$8,625
B. Single or Multi-Family At - tached and Mobile Home Park:						
1. First Ten (10) Units (each)	1,000	2,300	3,300	3,025	5,600	8,625
2. Additional Units Connected with First Ten	500	1,000	1,500	1,375	2,600	3,975
C. All Other Facilities: Water Meter Size[1] (Inches) Not Than / Larger Than / But Larger						
0 / 5/8	1,000	2,300	3,300	3,025	5,600	8,625
5/8 / ¾	1,350	3,650	5,000	3,450	6,625	10,075
¾ / 1	1,700	6,600	8,300	3,750	12,075	15,825
1 / 1½	3,250	13,250	16,500	4,600	18,400	23,000
1½ / 2	5,500	21,000	26,500	6,900	27,600	34,500
2 (Including Compound Meters)	(c) 5	4(c) 5	$150 for each gallon per minute of water meter capacity as deter- mined by American	(f) 5	4(f) 5	(c)+17,250

[1]Those facilities where a large portion of the flow through the water meter is to be used in a process, other than in an agricultural process, which does not return that portion of the flow to the facilities of the county shall have their tap fee based on the meter size determined by AWWA Manual M-22, 1975 (Sizing Meter Service Lines and Meters) necessary to handle those flows which are returned to the facilities of the county. Fire service meter size shall not be considered in determining the connection fee.

			Water Works Associa-tion Standards			

(b) If any facility whose connection fee is based on a water meter size is not connected to a metered water system, the county administrator may require the installation of a meter or may make a reasonable estimate of the meter requirements for the facility for the purpose of establishing the appropriate connection fee.

(c) The provisions of this section shall not apply to premises which have paid the applicable connection fee or arranged to pay the applicable connection fee through agreement with the county prior to the date of adoption of this section.

(d) A credit of $500shall be allowed against the above fees when a grinder pump is installed to service an existing premise as part of a County financed sewer extension project in accordance with regulations adopted pursuant to Section 18.1-3.

(e) Notwithstanding the provisions of paragraph (a) of this section, the connection fees established by the governing body in 1998 with the adoption of chapter 18.1 shall apply to any development or site plan having final approval from the county prior to September 1, 2002. In addition to these developments, the connection fees adopted in 1998 shall also apply for any project being financed by the county for which the preliminary design has started by September 1, 2002. For such projects, the regular connection fee shall be that fee which is in effect at the time of connection.

(f) Property owners may prepay the initial sanitary sewer connection fee for those properties that are included in a service area defined in the Utilities Strategic Capital Plan. Upon payment of the initial connection fee the provisions of Section 18.1-72 (a) will apply.

***

ARTICLE VI. RATES AND BILLING PROCEDURES

***

Sec. 18.1-72. Rates—Generally; effective September 1, 2002.

(a) *Payment—Generally.* The service charges set forth in this section shall be paid by all users of the public sewer system beginning September 1, 2002. For new development, user charges shall commence with the issuance of a certificate of occupancy. . Non-users owning premises having access to the facilities of the county or service available shall pay service charges equal to sixty-five percent (65%) of the service charges set forth in this section having agreed to do so in return for the benefit of paying the initial connection fee.

(b) *Bimonthly rate for single-family residential equivalents.* A bimonthly service charge of thirty-four dollars and fifty cents ($ 34.50) shall be paid to the county by single-family residential equivalents. A single-family residential equivalent is a mobile home, an apartment, a single-family detached dwelling, a townhouse, or any other unit used to house a single family on a full-time basis.

(c) *Bimonthly rates for users other than single-family residential equivalents.* If water consumption is measured in cubic feet, a bimonthly service charge per meter of two dollars and forty cents ($ 2.40) per one hundred (100) cubic feet or a minimum charge of $10.00 shall be paid to the county by users other than single family residential equivalents. If water consumption is measured in gallons, a bimonthly service charge per meter of three dollars ($ 3.00) per one thousand (1,000) gallons or a minimum charge of $10.00 shall be paid to the county by users other than single-family residential equivalents. Service charges, unless otherwise set forth herein, shall be based upon water consumed on the premises as measured by the meter or meters used for such purpose. In any case where the premises are not connected to a water system for which water consumption figures satisfactory to the county are available, the bimonthly service charge shall be thirty-four dollars and fifty cents ($ 34.50), plus six dollars and ($ 6.00) for each employee.

(d) *Reduction in charges for users other than single-family residential equivalents.* Premises other than single-family residential equivalents, which do not discharge the entire volume of water into a public sewer, shall be allowed a reduction in charge, provided the owner installs, at his expense, a meter or meters satisfactory to the county for measuring or determining the volume of water consumed and not discharged, or the volume of waste discharged into the public sewer.

(e) *Authority to require installation of measuring devices.* The county reserves the right to require the installation of facilities for measuring or determining the volume of water consumed or the volume of waste discharged into the sewer.

(f) *Commencement of service charges.* Service charges imposed by this section shall commence on the first day of the immediately succeeding billing period in the case of new connections to the public sewer system and at the time prescribed in the application for service in all other cases.

***

Sec. 18.1-76. Application for service; deposit required.

No new or reinstated service shall be supplied to any applicant until payment of a cash deposit equal to the estimated charge for one (1) bimonthly billing period. The deposit shall be held by the county until such applicant ceases to be served by the system at which time any portion of such deposit due shall be returned without interest to the applicant by whom it was made, provided that all unpaid charges and fees shall be deducted from the amount of the deposit. If the deposit is not sufficient to pay all charges and fees due, the remaining balance shall be subject to normal collection procedures of the county. A deposit shall not be required for single family residential equivalents as defined in section 18.1-72(b) or its successor sections except in the case of rental units which are master metered as one (1) connection.

Sec. 18.1-77. Water not to be supplied until written application for sewer and deposit received.

No water purveyor within the county shall provide or transfer service to a new customer, other than single-family residential equivalents, served by facilities of the county until such cus-

tomer produces evidence that the application and deposit, if any, required by section 18.1-76 of this chapter have been made.

***

Sec. 18.1-79. When bills to be paid; overdue accounts.

(a) Sewer service charges shall be due upon receipt of the statement rendered by the county and shall be considered delinquent thirty (30) days following the billing date. A late charge of ten percent (10%) of the amount due or five dollars ($5.00), whichever is greater, shall be added to all service charges when they are first considered delinquent. Interest at the rate of ten percent (10%) per annum shall be charged on the aggregate of the payment and penalty due beginning with the date the penalty is applied. If any bill shall not be paid within forty-five (45) days of the billing date, the water supply to the premises shall be discontinued as provided for in section 18.1-82 of this chapter.

(b) In lieu of discontinuing water service as provided for in paragraph (a) of this section, the county administrator may enter into agreements by which the owners of the premises for which bills for service are unpaid may be allowed to pay the amount owed including the penalty and interest owed in installment payments, such agreements to contain such other reasonable terms and conditions as may be necessary to ensure payment, and to be approved as to form by the county attorney. Such agreements shall provide that late payment of any installment payment or a failure to pay current amounts due shall result in immediate discontinuance of the water supply to the premises.

(c) Any unpaid sewer connection fee or any installment thereof, or any unpaid service charge, together with any penalty and interest, shall become a lien superior to the interest of any owner, lessee, or tenant, and next in succession to county taxes on the real estate benefited by any such facilities. Such lien may be discharged by payment to the county of the total amount of such lien, together with penalty and interest accrued thereon to the date of payment. If any such charges remain unpaid for a period of sixty (60) days from the billing date, the county administrator shall within thirty (30) days certify such charges as being unpaid to the clerk of the circuit court who shall docket the same in the appropriate lien books of the circuit court.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins,
Nay: (0)

AMENDMENT TO THE YORK COUNTY CODE: EROSION AND SEDIMENT CONTROL

Mr. McReynolds made a presentation proposed Ordinance No. 02-7(R) to adopt the State's Erosion and Sediment Handbook and Regulations.

Chairman Wiggins called to order a public hearing on proposed Ordinance No. 02-7(R) which was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND CHAPTER 10, EROSION AND SEDIMENT CONTROL, YORK COUNTY CODE, ADOPTING THE COM-

MONWEALTH OF VIRGINIA EROSION AND SEDIMENT HANDBOOK
AND STATE REGULATIONS

There being no one present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance R02-7(R) which reads:

AN ORDINANCE TO AMEND CHAPTER 10, EROSION AND SEDIMENT CONTROL, YORK COUNTY CODE, ADOPTING THE COMMONWEALTH OF VIRGINIA EROSION AND SEDIMENT HANDBOOK AND STATE REGULATIONS

BE IT ORDAINED by the York County Board of Supervisors this the 16th day of July, 2002, that Chapter 10, Erosion and Sediment Control, York County Code, be and it is hereby amended to read and provide as follows:

ARTICLE I. IN GENERAL

Sec. 10-1. Purpose of chapter.

It is the purpose of this chapter to prevent degradation of properties, stream channels, waters and other natural resources of the county by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

This chapter is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4 (10.1-560 et seq.), known as the Erosion and Sediment Control Law.

Sec. 10-2. Definitions.

For the purpose of this chapter, the following words and terms shall have the meanings ascribed to them in this section:

Agreement in lieu of a plan. A contract between the plan-approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family detached dwelling; this contract may be executed by the plan-approving authority in lieu of a formal site plan.

Applicant. Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

Certified inspector. An employee or agent of the County who has been designated as such by the county administrator. A certified inspector shall (i) hold a certificate of competence from the Virginia Soil And Water Conservation Board in the area of project inspection or (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for project inspection and successfully complete such program within one year after enrollment.

Certified plan reviewer. A County employee or agent who has been designated as such by the county administrator. A certified plan reviewer shall (i) hold a certificate of competence from the Virginia Soil and Water Conservation Board in the area of plan review, (ii) be enrolled in

the Virginia Soil and Water Conservation Board's training program for plan review and successfully complete such program within one year after enrollment, or (iii) be licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to article 1 (Sec 54.1-400 et seq.) of chapter 4 of title 54.1 of the Code of Virginia, as it may be amended from time to time.

Certified program administrator. A County employee or agent designated as such by the county administrator. A certified program administrator shall (i) hold a certificate of competence from the Virginia Soil and Water Conservation Board in the area of program administration or (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for program administration and successfully complete such program within one year after enrollment.

Clearing. Any activity which removes the vegetative ground cover including, but not limited to, root mat removal or topsoil removal.

Code of Virginia. All references herein to the Code of Virginia are to the Code of Virginia (1950), as it may be amended from time to time.

Conservation plan, erosion and sediment control plan, or plan. A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretation and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

County. The County of York.

County Administrator. The county administrator for York County, or his designee.

Department. The Virginia Department of Conservation and Recreation.

Director. The director of the Virginia Department of Conservation and Recreation.

District or soil and water conservation district. Refers to the Colonial Soil and Water District.

Erosion Impact area. An area of land not associated with current land-disturbing activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

Excavating. Any digging, scooping or other methods of removing earth materials.

Filling. Any depositing or stockpiling of earth materials.

Grading. Any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

Land-disturbing activity. Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to clearing, grading, excavating, transporting and filling of land except that the term shall not include:

(1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;

(2) Individual service connections;

(3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided the land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;

(4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to the construction of the building to be served by the septic tank system;

(5) Surface or deep mining;

(6) Exploration or drilling for oil and gas, including the well site, roads, feeder lines and off-site disposal areas;

(7) Tilling, planting or harvesting of agricultural, horticultural or forest crops or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 of Title 10.1 of the Code of Virginia (Sec 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia Sec 10.1-1163(B);

(8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;

(9) Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Virginia Dam Safety Act (Article 2 of Chapter 6 of Title 10.1, Code of Virginia, Sec. 10.1-604 et seq.) ditches, strip cropping, lister furrowing, contour cultivation, contour furrowing, land drainage and land irrigation;

(10) Disturbed land areas of less than two thousand five hundred (2,500) square feet in size;

(11) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(12) Shore erosion control projects on tidal waters when the projects are approved by the County Wetlands Board, the Virginia Marine Resources Commission or the United States Army Corps of Engineers;

(13) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall

be shaped and stabilized in accordance with the requirements of the plan approving authority.

Land-disturbing permit. A permit issued by the County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof for any purpose set forth herein.

Local erosion and sediment control program or local control program. All of the various methods employed by the County to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, which may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

Minimum Standards. Those Minimum Standards contained within the Erosion and Sediment Control Regulations promulgated by the Virginia Soil and Water Conservation Board, as set out in 4VAC50-30-40 of the Virginia Administrative Code as they may be amended from time to time.

Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.

Permittee. The person to whom a permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

Person. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or any other political subdivision of the state, any interstate body, or any other legal entity.

Plan-approving authority. The county administrator or his designee who is responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

Program authority. The County, which has adopted a soil erosion and sediment control program approved by the Virginia Soil and Water Conservation Board.

Regulations. All regulations promulgated by any local, state, or federal governmental agency having oversight and authority over the control of erosion and sedimentation resulting from land-disturbing activities, including (without limitation) the Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook promulgated by the Virginia Soil and Water Conservation Board, as they may be amended from time to time.

Responsible Land Disturber. An individual from the project or development team, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Virginia Soil and Water Conservation Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of chapter 4 of title 54.1 of the Code of Virginia, as it may be amended from time to time.

Single-family detached dwelling. A noncommercial one-family dwelling unit which is surrounded on all sides by yards or other open space located on the same lot and which is not attached to any other dwelling by any means. For purposes of the definition of a "single-family detached dwelling", the term "family" shall have the same meaning as is defined in the York County zoning ordinance, Chapter 24.1 of this Code.

State erosion and sediment control program or state program. The program administered by the Virginia Soil and Water Conservation Board pursuant to the Code of Virginia, including regulations designed to minimize erosion and sedimentation.

State waters. All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.

Transporting. Any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

Sec. 10-3. Local erosion and sediment control program.

(a) Pursuant to section 10.1-562 of the Code of Virginia, the County hereby adopts the regulations, references, guidelines, standards and specifications (hereinafter "the Virginia Erosion and Sediment Control Regulations") and the Virginia Erosion and Sediment Control Handbook ("the Handbook") promulgated by the Virginia Soil and Water Conservation Board, as such may be amended from time to time, for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. The Virginia Erosion and Sediment Control Regulations and the Handbook are sometimes referred to hereinafter as "the state program".

(b) Before adopting regulations which are more stringent than the state program, the County shall give due notice and conduct a public hearing on the proposed or revised regulations. No public hearing shall be required when the County is amending the local control program to conform to revisions in the state program.

(c) Pursuant to section 10.1-561.1 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector.

(d) The county administrator is hereby designated as the County's agent for the purpose of administering and enforcing the terms of this chapter. The agent is authorized to make such inspections as may be necessary to ensure compliance with the terms of this chapter, and any conditions of approval for specific projects and is authorized to take such steps as are provided by this chapter, and as may be necessary, to ensure compliance with its terms.

(e) The county administrator is hereby designated as the plan approving authority for the purpose of this chapter and is authorized, on be half of the county, to review and approve applications for permits under the terms of this chapter.

(f) The County's Erosion and Sediment Control Program shall employ or retain one or more certified program administrators, one or more certified plan reviewers, and one or more certified inspectors. A single individual may be designated to perform more than one of such functions provided that the individual possesses the requisite qualifications.

(g) The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the County's Department of Environmental and Development Services.

Sec. 10-4. Conflicting requirements.

(a) The terms, conditions and provisions of this chapter shall in no way alter, diminish or change the terms, conditions or provisions of any other ordinance of the county.

(b) In the case of any conflict between any term, condition or provision of this chapter with any term, condition or provision of any other ordinance, the more restrictive term, condition or provision shall prevail.

(c) In the case of any conflict between any term, condition or provision of this chapter with any other term, condition or provision contained elsewhere in this chapter, the more restrictive term, condition or provision shall prevail.

Secs. 10-5—10-10. Reserved.

ARTICLE II. PLANS, PERMITS, STANDARDS AND INSPECTIONS

Sec. 10-11. Regulated land-disturbing activities; contents, submission and approval of plans

(a) Except as provided herein, no person may engage in any land-disturbing activity until he has submitted to the County Department of Environmental and Development Services an erosion and sediment control plan ("plan") for the land-disturbing activity and such plan has been approved by the plan-approving authority.

Where land-disturbing activities involve lands under the jurisdiction of more than one local erosion and sediment control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the Virginia Soil and Water Conservation Board for review and approval rather than to each jurisdiction concerned.

Where the land-disturbing activity results from the construction of a single-family detached dwelling, an "agreement in lieu of a plan" may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

(b) The standards contained within the Virginia Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by these same standards, regulations and guidelines. When the standards vary between the publications, the

Virginia Erosion and Sediment Control Regulations shall take precedence. In addition to the above standards, the following requirements shall be met for plan submissions:

(1) A minimum of four copies of the erosion and sediment control plan shall be submitted for review and approval.

(2) Plan sheet size shall be 24 inches by 36 inches.

(3) Plans shall be prepared to an appropriate engineer's scale and the scale shall be shown on the plan. Scale shall be no smaller than one inch equal to 100 feet.

(4) The name of the project, the developer, the owner of the property and the name, address, and telephone number of the person or firm preparing the plan shall be listed on the plan.

(5) The location and extent of any transitional buffers, infiltration yards, environmental management areas (includes Chesapeake Bay preservation areas), floodplain management areas, historic resources management areas, tourist corridor management areas or watershed management and protection areas that may be required by the application of chapter 24.1 (zoning ordinance) of this code shall be shown on the plan.

(6) The location, type, extent, owner's name and recordation information of any existing or proposed landscape, conservation, preservation, drainage, utility, ingress/egress or similar easements on the subject property or adjoining the property shall be shown on the plan.

(7) Trees proposed for preservation, their approximate drip line and the location, type and extent of tree protection devices and measures to assure preservation during clearing and subsequent development activity shall be shown on the plan.

(8) The sequence of construction outlining the installation and removal of erosion and sediment control measures in relationship to the development of the site shall be on the plan.

(9) An itemized cost estimate detailing the expected total construction costs of all erosion and sediment control measures associated with the plan shall be prepared and submitted along with the plan.

(10) Consistent with Code of Virginia section 10.1-563(B), as a prerequisite to approval of an application, the person responsible for implementing the erosion and sediment control plan shall provide the name of a Responsible Land Disturber, who will be in charge of and responsible for carrying our the land disturbing activity in accordance with the approved plan.

(c) The plan-approving authority shall, within 45 days, approve any such plan, if it is determined that the plan meets the requirements of the local control program, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this ordinance.

(d) The plan shall be acted upon within 45 days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.

When the plan is determined to be inadequate, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(e) An approved plan may be changed by the plan-approving authority when:

(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or

(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the plan-approving authority and the person responsible for carrying out the plans.

(f) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.

(g) Consistent with Code of Virginia section 10.1-563(D), electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies or railroad companies shall file general erosion and sediment control specifications annually with the Virginia Soil and Water Conservation Board for review and approval. The specifications shall apply to:

(1) Construction, installation and maintenance of electric, natural gas and telephone utility lines and pipelines; and

(2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Individual County approval of separate projects as described in (1) and (2), above, shall not be required provided that Virginia Soil and Water Conservation Board approved specifications are followed. Projects not described in (1) and (2) above shall comply with the requirements of this ordinance.

(h) State agency projects are exempt from the provisions of this chapter except as provided for in the Code of Virginia, section 10.1-564.

Sec. 10-12. Required permits.

(a) No person may engage in any land-disturbing activity, nor shall any building permit be issued by the County's building official, until such person shall have acquired a land-disturbing permit and have paid the fees and executed a secured performance agreement, unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance.

(b) The county administrator may require the owner of property which has been designated by the county administrator as an erosion impact area to prepare and submit an erosion and sediment control plan for review and approval; and upon approval of the erosion and sediment control plan for the erosion impact area, the county administrator may require the owner of the property to obtain a land-disturbing activity permit, and to fully implement the approved plan.

(c) No permit which authorizes land-disturbing activities shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.

Sec. 10-13. Plan review and inspection fee.

Any request for review and approval of an erosion and sediment control plan shall be accompanied by the payment of a plan review and inspection fee. Such fee shall be in the amount fixed, and as may be thereafter changed from time to time, by resolution adopted by the board of supervisors.

Sec. 10-14. Issuance of permit and surety requirements.

(a) No permit for activities approved under this chapter shall be issued until the applicant has executed a performance agreement secured by a cash escrow, letter of credit, or any combination thereof, or other suitable legal arrangement, in a form approved by the county attorney. Such cash escrow or letter of credit shall be in an amount acceptable to the county administrator and shall be sufficient to ensure that measures may be taken by the county, at the applicant's expense, should he fail, after proper notice and within the time specified, to establish and maintain appropriate conservation measures required of him as a result of his land-disturbing activities. The amount of the security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the county to take such conservation action, the county may collect from the applicant any costs in excess of the amount of the surety held. Nothing shall prevent the county from exercising such authority to prevent or remedy damages to other property, public or private, caused by an applicant's regulated activities. The county administrator may waive the requirement for surety if the surety amount is determined to be less than one thousand dollars ($1,000.00) and the land-disturbing activity is associated with the preparation for a single-family detached dwelling.

(b) Within sixty (60) days of the completion of the land-disturbing activity, as indicated by the issuance of a certificate of completion pursuant to section 10-17 of this chapter, such cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated as the case may be.

(c) These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

(d) No permit shall be issued which would authorize any land-disturbing activity for any development which requires site plan or subdivision plan review prior to the approval

of the site or subdivision plan except upon the approval of the county administrator where it is determined after initial reviews of the development proposal that the only unresolved issues preventing site plan or subdivision plan approval are those which will not affect the location and extent of structures, parking areas or roads, or in accordance with subsection (f) below.

(e) No permit shall be issued which would authorize any land-disturbing activity within any area included within a recorded or proposed landscape preservation or similar easement, unless the land-disturbing activity is deemed necessary by the county administrator for the construction, installation or maintenance of storm drainage facilities or utilities operated and maintained by the county.

(f) Where a commercial or industrial site in excess of five (5) acres is proposed to be developed to accommodate multiple lots and/or buildings under separate ownership or control, the county administrator may, notwithstanding the provisions of subsection (d) above, authorize a land-disturbing activity in advance of approval of site plans for the individual commercial or industrial establishments upon demonstration by the property owner, to the satisfaction of the county administrator, that the topographic relief of the property will require extensive cut, fill and grading to prepare the site for multiple lot or building development and that such site preparation prior to plan approval is necessary and consistent with the objectives and policies of the county.

The following conditions shall be required by the county administrator in conjunction with such an authorization and shall be satisfied prior to issuance of any land-disturbing activity permits:

(1) A plan of development for the roads, drainage facilities and main-line utilities that will serve the proposed development and its multiple building sites shall be prepared, submitted and approved in accordance with all applicable site plan or subdivision development plan requirements.

(2) All work shall be performed in strict accordance with an approved erosion and sediment control plan that has been prepared and approved in accordance with all applicable standards.

(3) The construction of all streets, main-line utilities, drainage improvements and similar infrastructure, both public and private, as shown on the approved plan, shall be guaranteed for construction by an agreement and secured by a letter of credit or cash escrow in an amount approved by the county administrator and county attorney. The agreement shall require that said construction shall commence within one year of the initial date of authorization of the land-disturbing activity and shall be in accordance with properly submitted and approved plans.

(4) Reforestation of the property, or portions thereof as deemed appropriate by the county administrator, with approximately the same numbers and species of trees as were located on the property prior to clearing shall be guaranteed by an agreement and secured by a letter of credit or cash escrow in an amount approved by the county administrator and in such form as may be approved by the county attorney. Said reforestation shall be required unless a certificate of occupancy for at least one (1) commercial or industrial establishment is issued

within three (3) years of the initial date of authorization of the land-disturbing activity.

(5) No clearing shall be permitted within fifty feet (50') of any property line, except to permit the construction of approved infrastructure improvements, nor within any other portion of the site determined by the county administrator to be non-essential to preparation of the site for development.

(6) The county administrator shall require the submission of any additional plans, plats, certifications or supporting materials deemed to be necessary and appropriate to apply and enforce this subsection.

Sec. 10-15. Term of permit.

(a) A permit issued under this article shall be valid for a period of one (1) year; provided, however, it may be extended for an additional one-year period, by written approval of the county administrator, upon receipt of evidence of reasonable progress toward completion of the approved project and compliance with all conditions of approval.

(b) If land disturbing activities cease for more than one hundred-eighty (180) days, or if the permittee fails to initiate land disturbing activities within one hundred-eighty (180) days, of the date of issuance of a land disturbing activity permit, then the land disturbing activity permit and plan shall become void.

Sec. 10-16. Monitoring, reports, inspections, stop work orders and revocation of permits.

(a) The county may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of all inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.

(b) The county administrator shall periodically inspect the land-disturbing activity to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. Unless the county establishes and follows an alternative inspection program approved by the Virginia Soil and Water Conservation Board, inspections shall be provided during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

If the county administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply

within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.

(c) Upon determination of a violation of this ordinance, the county administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan or an approved agreement in lieu of a plan, the county administrator may, in conjunction with or subsequent to a notice to comply as specified in this chapter, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.

The order shall be served in the same manner set out in subsection (b), above, for a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the circuit court for the county.

If the alleged violator has not obtained an approved plan or any required permits within seven days from the date of service of the order, the county administrator may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the county.

The owner may appeal the issuance of an order to the circuit court for the county.

Any person violating or failing, neglecting or refusing to obey an order issued by the county administrator may be compelled in a proceeding instituted in the circuit court for the county to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the county administrator from taking any other action authorized by this ordinance.

(d) Revoked land-disturbing activity permits shall be reinstated only after the permittee has complied with the provisions specified in the notice to comply, and only after the permittee has implemented and maintained proper erosion and sediment control measures in accordance with the approved plans and/or in accordance with the directions provided by the county administrator, and only if the permittee has complied with

all of the terms and conditions under which the original land-disturbing activity permit was issued. In addition, the permittee must apply for reinstatement of the revoked land-disturbing activity permit. An inspection and review fee shall accompany the permittee's written request for the reinstatement of the revoked land-disturbing activity permit. The reinstatement inspection and review fee shall be equivalent to the original land-disturbing activity permit inspection and review fee. Furthermore, if the county has drawn upon the permittee's land-disturbing activity performance surety funds, and the county has expended all or a portion of the permittee's surety funds in an effort to correct the erosion and sediment control violations, then the permittee shall be required to provide an additional surety equivalent to the expended portion of the original surety funds.

Sec. 10-17. Certificate of completion of land-disturbing activity.

Upon completion of the land-disturbing activity in accordance with the approved plan, the county administrator shall issue a certificate of completion.

Secs. 10-18—10-25. Reserved.

ARTICLE III. VIOLATIONS, PENALTIES AND APPEALS

Sec. 10-26. Violations of chapter—Generally.

(a) Any person who engages in or causes any regulated land-disturbing activity, without first receiving approval for such activity as prescribed by this chapter, shall be in violation of this chapter.

(b) Any person who violates any condition of any authorized land-disturbing activity or exceeds the scope of approval of any authorized activity or who fails to comply with any other provision of this chapter shall be in violation of this chapter.

Sec. 10-27. Penalties, injunctions and other legal actions.

(a) Any person who violates any provision of this chapter shall, upon a finding of the district court of the county, be assessed a civil penalty. The civil penalty for any one violation shall be $100.00, except that the civil penalty for commencement of land-disturbing activities without an approved plan or an approved agreement in lieu of a plan shall be $1000.00. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of $3,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan or an approved agreement in lieu of a plan for any site shall not result in civil penalties which exceed a total of $10,000.

(b) The county administrator, or the owner of property which has sustained damage or which is in imminent danger of being damaged, may apply to the circuit court of the county to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist. However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the

person who has violated the ordinance, and the county administrator, that a violation of the ordinance has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the ordinance nor the county administrator has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

(c) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed $2,000 for each violation. A civil action for such violation or failure may be brought by the county.

Any civil penalties assessed by a court shall be paid into the treasury of the county, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(d) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this chapter, the county may provide for the payment of civil charges for violations in specific sums, not to exceed $2,000. The county administrator shall establish a schedule enumerating the violations and the associated civil charges. Such civil charges shall be instead of any appropriate civil penalty.

(e) The County Attorney shall, upon request, take legal action to enforce the provisions of this ordinance.

(f) Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

(g) Nothing herein shall prevent the County Administrator from or be a prerequisite to the County Administrator taking any other action allowed by law or equity to remedy noncompliance with this Chapter.

Sec. 10-28. Appeals and judicial review.

Final decisions of the county under this ordinance shall be subject to review by the circuit court of the county, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

On roll call the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Wiggins,
Nay: (0)

AMENDMENT TO YORK COUNTY CODE: APPEALS OF LOCAL LICENSE TAX ASSESSMENTS

Mr. Barnett made a presentation on proposed Ordinance No. 02-9 to amend the York County Code relative to appeals of local license tax assessments and extending the time during which an appeal may be made to the Commissioner of the Revenue.

Chairman Wiggins called to order a public hearing on proposed Ordinance 02-9 which was duly advertised as required by law and is entitled:

> AN ORDINANCE TO AMEND YORK COUNTY CODE SECTION 14-14.1 RELATIVE TO APPEALS OF LOCAL LICENSE TAX ASSESSMENTS AND EXTENDING THE TIME DURING WHICH AN APPEAL MAY BE MADE TO THE COMMISSIONER OF REVENUE

There being no one present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance R02-9 which reads:

> AN ORDINANCE TO AMEND YORK COUNTY CODE SECTION 14-14.1 RELATIVE TO APPEALS OF LOCAL LICENSE TAX ASSESSMENTS AND EXTENDING THE TIME DURING WHICH AN APPEAL MAY BE MADE TO THE COMMISSIONER OF REVENUE

WHEREAS, the 2002 General Assembly adopted House Bill 317 which, among other things made certain amendments relative to appeal periods of local license tax assessments; and

WHEREAS, House Bill 317 requires suitable amendments to York County Code § 14-14.1.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this 16th day of July, 2002, that § 14-14.1 of the York County Code be and it is hereby amended as follows, such amendments to take effect upon adoption:

Sec. 14-14.1. Appeals and rulings.

(a) Any person assessed with a local license tax as a result of an appealable event as defined in this section may apply within one (1) year from the date of the appealable event, whichever is later, to the commissioner of revenue for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The commissioner of revenue may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or a further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The commissioner of revenue shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an appealable event shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed (e.g., the name and address to which an application should be directed.

(b) Provided a timely and complete application is made, collection activity shall be suspended until a final determination is issued by the commissioner of revenue, unless the commissioner of revenue determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of section 14-11, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires to (i) depart quickly from the County; (ii) remove his property therefrom, (iii) conceal himself or his property therein, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(c) Any person assessed with a local license tax as a result of a determination, upon an application for correction pursuant to subdivision (a) of this section, that is adverse to the position asserted by the taxpayer in such application may apply within ninety (90) days of the determination by the commissioner of revenue to the Tax Commissioner for a correction of such assessment. The Tax Commissioner shall issue a determination to the taxpayer within ninety (90) days of receipt of the taxpayer's application, unless the taxpayer and the commissioner of revenue are notified that a longer period will be required. The application shall be treated as an application pursuant to § 58.1-1821, Code of Virginia, and the Tax Commissioner may issue an order correcting such assessment pursuant to § 58.1-1822, Code of Virginia. Following such an order, either the taxpayer or the commissioner of revenue may apply to the appropriate circuit court pursuant to § 58.1-3984, Code of Virginia. However, the burden shall be on the party making the application to show that the ruling of the Tax Commissioner is erroneous. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the Tax Commissioner, the commissioner of revenue shall further suspend collection activity until a final determination is issued by the Tax Commissioner, unless the commissioner of revenue determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of section 14-11, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth above.

(e) Any taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the commissioner of revenue. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (ii) the commissioner of revenue notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(f) For purposes of this section, "appealable event" means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the commissioner of revenue's (i) examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment, (ii) determination regarding the rate or classification applicable to the licensable business, (iii) assessment of a local license tax when no return has been filed by the taxpayer, or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

(g) Any taxpayer whose application for correction pursuant to the provisions of subdivision (a) above has been pending for more than two years without the issuance of a final determination may, upon not less than thirty days' written notice to the commissioner of revenue, elect to treat the application as denied and appeal the assessment to the Tax Commissioner in accordance with the provisions of subsection (c). In accordance with § 58.1-3703.1 (A)(5)(g), Code of Virginia, the Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of final determination on the part of the assessor was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the assessor to make his determination.

On roll call the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins,
Nay: (0)

AMENDMENT TO YORK COUNTY CODE: PARKING PROHIBITION OR RESTRICTION

Mr. McReynolds made a presentation on proposed Ordinance No. 02-12 to amend the York County Code to add the Grafton Woods, Sommerville, and Kiln Creek subdivisions to the list of specific areas where parking of certain classifications of commercial, recreational, and passenger carrying vehicles on public streets is prohibited.

Chairman Wiggins asked when this issue would come up again.

Mr. McReynolds stated that the Board had instructed staff to put this on a semi-annual rotation to find out what the response would be, and that staff had been instructed to come up with the criteria for qualifications.

Mr. Shepperd reported that he had been contacted by concerned homeowners' associations requesting that they be added to the parking ordinance. He asked why only selected neighborhoods were included in the ordinance.

Mr. Burgett explained that the original ordinance that went to the Commonwealth Transportation Board included most of the subdivisions in York County. Based on the input from the Commonwealth Transportation Board, the Board of Supervisors rejected the ordinance and directed staff to redraft it to only include those neighborhoods with a parking problem.

Chairman Wiggins called to order a public hearing on proposed Ordinance 02-12 which was duly advertised as required by law and is entitled:

AN ORDINANCE TO AMEND SECTION 15-48, PARKING PROHIBITED OR RESTRICTED IN SPECIFIC PLACES, OF THE YORK COUNTY CODE, TO ADD THE GRAFTON WOODS, SOMMERVILLE, AND KILN CREEK SUBDIVISIONS TO THE LIST OF SPECIFIC AREAS WHERE THE PARKING OF COMMERCIAL, RECREATIONAL AND PASSENGER-CARRYING VEHICLES ON PUBLIC STREETS IS PROHIBITED

Ms. Shirley Wilcox, 117 Gnarled Oak Lane, stated her community of Grafton Woods was very concerned about this issue, and she thanked the Board for including their community in the proposed ordinance.

There being no one else present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance R02-12 which reads:

AN ORDINANCE TO AMEND SECTION 15-48, PARKING PROHIBITED OR RESTRICTED IN SPECIFIC PLACES, OF THE YORK COUNTY CODE, TO ADD THE GRAFTON WOODS, SOMMERVILLE, AND KILN CREEK SUBDIVISIONS TO THE LIST OF SPECIFIC AREAS WHERE THE PARKING OF COMMERCIAL, RECREATIONAL AND PASSENGER-CARRYING VEHICLES ON PUBLIC STREETS IS PROHIBITED

WHEREAS, the York County Board of Supervisors has determined that the parking of large vehicles along residentially oriented streets, other than for temporary periods to allow deliveries, may present safety hazards for other vehicles and for pedestrians, may create noise that disrupts the peace and tranquility of residential areas, and may contribute to premature failure of road surfaces designed to accommodate primarily passenger vehicles; and

WHEREAS, pursuant to Section 46.2-1222 of the Code of Virginia, the board has adopted and the Commonwealth Transportation Board has approved, an ordinance that prohibits the parking of certain classifications of vehicles on certain secondary system highways in designated areas of the County; and

WHEREAS, pursuant to requests made by the homeowners associations of certain residential areas, and the investigation of the streets and parking characteristics of those areas, the Board has determined that it would be appropriate and desirable to add three neighborhoods to the list of areas subject to the special parking restrictions; and

WHEREAS, the Board has undertaken its consideration of these additional areas in accordance with the procedures outlined in Section 15-48(c)(4) of the County Code, said procedures having been approved also by the Commonwealth Transportation Board;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this 16th day of July, 2002, that Section 15-48 of Chapter 15, Motor Vehicles and Traffic, York County Code, be and it is hereby amended, subject to approval of the Commonwealth Transportation Board, as follows:

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Sec. 15-48. Parking prohibited or restricted in specified places.

***

(c) *Parking of certain classifications of vehicles in certain designated areas*

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(3) Designation of Specific Vehicle Classifications and Areas Subject to Restriction

No person shall park any commercial vehicle, passenger-carrying vehicle, or recreational vehicle (all as defined herein) on any road, highway or street within the state secondary system of highways in any of those areas or subdivisions in the County as described below. In the case of subdivisions, the areas governed by this subsection shall be those areas commonly known by the names listed below and designated on the plats of subdivision recorded in the clerk's office of the circuit court of the county. Such restrictions shall have no application to any privately owned street, or any street owned by a property owners association within the listed areas. In the event a street serves as the dividing line between a residential and commercial zoning district, the parking restrictions shall apply only on the residentially-zoned side of the street.

a. Skimino Farms subdivision, all sections.

b. Greensprings vicinity being further described as the area bounded by Bypass Road on the south, Waller Mill Road on the west, Carrs Hill Road on the north, and Route 132 on the east.

c. Penniman Road/Government Road/Hubbard Lane vicinity being further described as the area bounded by Government Road and Penniman Road on the south and southwest, the Williamsburg city line on the west and northwest, the Colonial Parkway on the north, and Interstate 64 on the northeast and southeast, including, but not limited to, all sections of the Queenswood, Charleston Heights, Springfield Terrace, Nelson Park, York Terrace, Magruder Woods, Bruton Glen, Penniman East, Penniman Woods, Queens Creek Estates, and Middletown Farms subdivisions.

d. Carver Gardens

e. Yorktown, being further described as the area bounded by the York River on the northeast, the United States Coast Guard Reserve Training Center on the east, Route 238 and the Colonial Parkway on the southwest, and Yorktown Creek on the west.

f. York Crossing.

g. Glen Laurel

h. Yorkshire Park

i. Heritage Hamlet

j. Plantation Acres

k. Bethany Terrace

l. Grafton Woods

m. Sommerville

n. Villages of Kiln Creek

***

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Burgett, Wiggins,
Nay: (0)

CONVEYANCE OF POWER LINE EASEMENT

Mr. Barnett made a presentation on proposed Resolution R02-134 to authorize the execution of a power line easement deed to Virginia Electric and Power Company across property owned by the County and located at 101 Long Green Boulevard to facilitate the construction of the YMCA Community Center.

Chairman Wiggins called to order a public hearing on proposed Resolution R02-134 which was duly advertised as required by law and is entitled:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A POWER LINE EASEMENT DEED TO VIRGINIA ELECTRIC AND POWER COMPANY ACROSS PROPERTY OWNED BY THE COUNTY AND LOCATED AT 101 LONG GREEN BOULEVARD, TO FACILITATE THE CONSTRUCTION OF THE YMCA COMMUNITY CENTER

There being no one present who wished to speak concerning the subject resolution, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Resolution R02-134 which reads:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE A POWER LINE EASEMENT DEED TO VIRGINIA ELECTRIC AND POWER COMPANY ACROSS PROPERTY OWNED BY THE COUNTY AND LOCATED AT 101 LONG GREEN BOULEVARD, TO FACILITATE THE CONSTRUCTION OF THE YMCA COMMUNITY CENTER

WHEREAS, the County is the owner of a parcel of property located at 101 Long Green Boulevard in the Tabb section of York County, which property has been leased to the Peninsula YMCA for the construction of a community center; and

WHEREAS, in connection with the construction of the community center, it is necessary to grant to Virginia Electric and Power Company (Vepco) an easement for electric power and other utilities; and

WHEREAS, following a duly advertised public hearing, this Board has determined that granting the easement will serve the public interests.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of July, 2002, that the County Administrator be, and he is hereby authorized to execute a right-of-way agreement conveying a utility easement to Vepco across the above-referenced property, such easement to be in the location as shown on the plat attached to the memorandum from the County Attorney dated June 13, 2002, such deed to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins,
Nay: (0)

CONVEYANCE OF WATERLINE EASEMENT

Mr. Barnett made a presentation on proposed Resolution R02-145 to authorize the execution of a power line deed conveying a waterline easement to the City of Newport News across property owned by the County and located at 101 Long Green Boulevard to facilitate the construction of the YMCA Community Center.

Chairman Wiggins called to order a public hearing on proposed Resolution R02-145 which was duly advertised as required by law and is entitled:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A DEED CONVEYING A WATERLINE EASEMENT TO THE CITY OF NEWPORT NEWS ACROSS PROPERTY OWNED BY THE COUNTY AND LOCATED AT 101 LONG GREEN BOULEVARD, TO FACILITATE THE CONSTRUCTION OF THE YMCA COMMUNITY CENTER

There being no one present who wished to speak concerning the subject Resolution, Chairman Wiggins closed the public hearing.

Mr. Burgett then moved the adoption of proposed Resolution R02-145 which reads:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A DEED CONVEYING A WATERLINE EASEMENT TO THE CITY OF NEWPORT NEWS ACROSS PROPERTY OWNED BY THE COUNTY AND LOCATED AT 101 LONG GREEN BOULEVARD, TO FACILITATE THE CONSTRUCTION OF THE YMCA COMMUNITY CENTER

WHEREAS, the County is the owner of a parcel of property located at 101 Long Green Boulevard in the Tabb section of York County, which property has been leased to the Peninsula YMCA for the construction of a community center; and

WHEREAS, in connection with the construction of the community center, it is necessary to grant to the City of Newport News a waterline easement; and

WHEREAS, following a duly advertised public hearing, this Board has determined that granting the easement will serve the public interests.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of July, 2002, that the County Administrator be, and he is hereby authorized to execute a deed conveying a waterline easement to the City of Newport News across the above-referenced property, such easement to be in the location as shown on the plat attached to the memorandum from the County Attorney dated June 27, 2002, such deed to be approved as to form by the County Attorney.

On roll call the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Wiggins,
Nay: (0)

AMENDMENT TO YORK COUNTY CODE: OFF-DUTY EMPLOYMENT BY DEPUTY SHERIFFS

Mr. Barnett made a presentation on proposed Ordinance 02-11 to add a new section to the York County Code authorizing off-duty employment by Deputy Sheriffs. He stated that the proposed ordinance would authorize deputy sheriffs to engage in off-duty, part-time employment in which they act as deputy sheriffs, exercising the law enforcement authority which is inherent to that office.

Mrs. Noll assumed that the deputies would wear their uniforms and carry their guns, and asked if they would be working for York County businesses only.

Sheriff Danny Diggs responded that the deputies would be working in the County, but that rare circumstances would dictate when the deputies would be needed in other jurisdictions. He explained that they would act under a Mutual Aid Agreement that would give them authority to do so.

Chairman Wiggins called to order a public hearing on proposed Ordinance 02-11 which was duly advertised as required by law and is entitled:

AN ORDINANCE TO ADD A NEW SECTION 2-3.1 TO CHAPTER 2, ADMINISTRATION, AUTHORIZING OFF-DUTY EMPLOYMENT BY DEPUTY SHERIFFS

There being no one present who wished to speak concerning the subject ordinance, Chairman Wiggins closed the public hearing.

Mrs. Noll then moved the adoption of proposed Ordinance R02-11 which reads:

AN ORDINANCE TO ADD A NEW SECTION 2-3.1 TO CHAPTER 2, ADMINISTRATION, AUTHORIZING OFF-DUTY EMPLOYMENT BY DEPUTY SHERIFFS

WHEREAS, Code of Virginia § 15.2-1712 states that police officers and deputy sheriffs may engage in off-duty employment occasionally requiring the use of their police powers in the performance of such employment provided that the locality shall adopt an ordinance authorizing such employment; and

WHEREAS, following a duly advertised public hearing, it is the determination of this Board that it is the best public interest to adopt such an ordinance.

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this 16th day of July, 2002, that § 2-3.1 be added to the York County Code as follows:

Sec. 2-3.1 Off-duty employment by deputy sheriffs

(a) Deputy sheriffs may engage in off-duty employment which may require the use of their police powers in the performance of such employment.

(b) The sheriff shall have the authority to promulgate reasonable rules and regulations applicable to off-duty employment of deputy sheriffs.

On roll call the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins,
Nay: (0)

Meeting Recessed. At 9:09 p.m. Chairman Wiggins declared a short recess.

Meeting Reconvened. At 9:16 p.m. the meeting was reconvened in open session by order of the Chair.

APPLICATION NO. UP-598-02, MICHELLE GARCIA

Mr. Carter made a presentation on Application No. UP-598-02 to approve a use permit authorizing a beauty shop as a home occupation within a single-family detached dwelling located at 104 Alabama Lane. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R02-139.

Chairman Wiggins called to order a public hearing on Application No. UP-598-02 which was duly advertised as required by law. Proposed Resolution R02-139 is entitled:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A BEAUTY SHOP AS A HOME OCCUPATION AT 104 ALABAMA LANE

Ms. Michelle Garcia, 104 Alabama Lane, appeared before the Board and explained that as the mother of twins, and pregnant with another child, she felt this application would be in the best interest of her family.

Mrs. Noll questioned Ms. Garcia's neighbors' response to this application.

Ms. Garcia stated the four surrounding neighbors provided her with a letter of recommendation.

There being no one else present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mr. Zaremba then moved the adoption of proposed Resolution R02-139 which reads:

A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A BEAUTY SHOP AS A HOME OCCUPATION AT 104 ALABAMA LANE

WHEREAS, Michelle Garcia has submitted Application No. UP-598-02 requesting a special use permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to authorize a beauty shop as a home occupation within a single-family detached dwelling on a 0.52-acre parcel of land located at 104 Alabama Lane (Route 1617) and further identified as Assessor's Parcel No. 2F-3-3-89; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has given careful consideration to the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of July, 2002, that Application No. UP-598-02 be, and it is hereby, approved to authorize a special use permit, pursuant to Section 24.1-283(b) of the York County Zoning Ordinance, to establish a beauty shop as a home occupation within a single-family detached dwelling on a 0.52-acre parcel of land located at 104 Alabama Lane and further identified as Assessor's Parcel No. 2F-3-3-89, subject to the following conditions:

1. This use permit shall authorize the establishment of a one (1)-chair beauty shop as a home occupation within a single-family detached dwelling on a 0.52-acre parcel of land located at 104 Alabama Lane and further identified as Assessor's Parcel No. 2F-3-3-89.

2. The conduct of such home occupation shall be limited to an area within the existing attached garage not to exceed 200 square feet.

3. The home occupation shall be conducted in accordance with the provisions of Sections 24.1-281 and 24.1-283(b) of the York County Zoning Ordinance, except as modified herein.

4. No person other than individuals residing on the premises shall be engaged on the premises in the home occupation.

5. The days and hours of operation shall be limited to Monday through Saturday from 9:00 AM to 5:00 PM.

6. No more than one (1) customer at any one time shall be served within the applicant's home.

7. Retail sales on the premises shall be limited to incidental sales of shampoo and other hair care products.

8. No signs or other forms of on-premises advertisement or business identification visible from outside the home shall be permitted.

9. In accordance with the terms of the Zoning Ordinance, a minimum of one (1) off-street parking space shall be provided on the premises to accommodate customers. This space shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.

10. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Burgett, Wiggins,
Nay: (0)

APPLICATION NO. UP-600-02, VOICESTREAM WIRELESS

Mr. Mark Carter made a presentation on Application No. UP-600-02 to approve a use permit authorizing a 400-foot, self-supporting communications tower with associated ground-mounted equipment at the York High School campus. He explained that VoiceStream Wireless needed a tower site of 175-feet and is proposing to construct a tower that would be capable of accommodating their needs, as well as the County's communication needs, to allow the existing guyed tower in front of York High School to be taken down and replaced completely. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of approval, and staff recommended approval of the application through the adoption of proposed Resolution R02-140.

Chairman Wiggins asked if Mr. Carter had knowledge of this type of tower falling before, and who was responsible for inspection of the towers.

Mr. Carter indicated the towers were extremely strong in severe weather conditions, but the one incident he was aware of was due to improper construction. He explained that the tower contractor was responsible for getting an independent certification of inspection.

Chairman Wiggins asked what the chances were of the tower falling.

Mr. Terry Hall, Manager of Emergency Communications, explained the survival strength of the tower, and the requirements for the State of Virginia.

Mr. Nate Holland, representative of VoiceStream Wireless, explained the safety of the tower structure.

Mr. Zaremba asked Mr. Hall to be prepared to discuss in the future the reliability of the new communication system that the County is investing in.

Mrs. Noll stated she would rather have taller towers than more towers dotting the landscape.

Chairman Wiggins called to order a public hearing on Application No. UP-600-02 which was duly advertised as required by law. Proposed Resolution R02-140 is entitled:

> A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A 400' SELF-SUPPORTING COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT AT YORK HIGH SCHOOL

Mr. Dick Ambrose, 205 Marl Ravine Road, stated he owned property directly across the street from where the proposed tower would be located. Mr. Ambrose spoke against the proposed tower and location, stating he was concerned over the appearance of the tower in the historical area of Yorktown. He stated he felt the tower would be an eyesore, and he encouraged the Board to vote against the tower.

There being no one else present who wished to speak concerning the subject application, Chairman Wiggins closed the public hearing.

Mr. Zaremba asked who would fund the dismantling of the present tower.

Mr. Carter stated the County would fund the demolition of the tower.

Mrs. Noll then moved the adoption of proposed Resolution R02-140 which reads:

> A RESOLUTION TO APPROVE A SPECIAL USE PERMIT TO AUTHORIZE A 400' SELF-SUPPORTING COMMUNICATIONS TOWER WITH ASSOCIATED GROUND-MOUNTED EQUIPMENT AT YORK HIGH SCHOOL

WHEREAS, VoiceStream Wireless has submitted Application No. UP-600-02, which requests a special use permit pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize construction of a 400-foot freestanding communications tower with associated ground-mounted equipment on the parcel located at 9300 George Wash-

ington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-2, 24-3, 24-5, and 24-6; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of July, 2002 that Application No. UP-600-02 be, and it is hereby, approved to authorize construction of a 400-foot freestanding communications tower with associated ground-mounted equipment on the parcel located at 9300 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-2, 24-3, 24-5, and 24-6, subject to the following conditions:

1. This use permit shall authorize the construction of a self-supporting communications tower on 49.6 acres of land located at 9300 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-2, 24-3, 24-5, and 24-6.

2. The height of the tower shall not exceed 400 feet.

3. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to commencement of any land clearing or construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the conceptual plan titled "New County Tower (Option A)", prepared by GEM Engineering Company, and dated May 16, 2002, a copy of which is on file in the York County Department of Environmental and Development Services. As part of the site plan submittal, the applicant shall prepare a frequency intermodulation study to determine the impact on current communication transmissions for the York County Departments of Fire and Life Safety and General Services, Sheriff's Office, School Division, and the Intrac Sewer Telemetry System. Should any equipment associated with this facility at any time during the operation of the tower be found by the County to cause interference with County communications, the applicant shall be responsible for the elimination of said interference within twenty-four (24) hours of receipt of notice from the County.

4. Construction and operation of the tower shall be in conformance with the performance standards set forth in Sections 24.1-493 and 24.1-494 of the Zoning Ordinance.

5. The applicant shall submit to the County a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.

6. A report from a registered structural or civil engineer shall be submitted indicating tower height and design, structure installation, and total anticipated capacity of the structure (including number and types of users that the structure can accommodate). These data shall satisfactorily demonstrate that the proposed tower conforms to all structural requirements of the Uniform Statewide Building Code and shall set out whether the tower will meet the structural requirement of EIA-222E, "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

7. The tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennae and comparable antennae for at least two additional users.

8. Advertising or signage other than warning, equipment information, or emergency notification signs on any portion of the tower or accessory facilities shall be prohibited. A sign measuring 6 square feet or less, clearly visible identifying the owner(s) and operator(s) of the communication tower, the telecommunication provider(s) name, and a contact telephone number and address shall be placed on the site at a location acceptable to the County.

9. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration, Federal Communications Commission, and any other review authority with jurisdiction over the tower, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.

10. Evidence shall be provided prior to receipt of a building permit that the Virginia State Corporation Commission has been notified that a communication facility is being constructed.

11. The equipment building and associated equipment shall be completely enclosed by a security fence to the satisfaction of the County.

12. The communication tower shall have either a galvanized finish or a similar finish deemed acceptable to the Zoning Administrator. Should the Federal Aviation Administration or the Federal Communications Commission, subsequent to the approval of the use permit, require special finishes which conflict with this requirement, such use permit shall be void until such time as the Board shall have conducted a public hearing. After such hearing, and after considering whether the Federal Aviation Administration or the Federal Communications Commission requirement is appropriate for the subject location, the Board shall either reinstate the use permit, or deny its reissuance.

13. The base of the tower and any accessory structures shall be appropriately landscaped to effectively obscure views from adjacent properties. Existing on-site vegetation shall be preserved to the maximum extent practicable.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins,
Nay: (0)

APPLICATION NO. PD-14-02, VILLA DEVELOPMENT, LLC, AND THE VILLAS ON SHADY BANKS, LLC.

Mr. Carter made a presentation on Application No. PD-14-02 to reclassify approximately 63.8 acres of land located on the north side of Hampton Highway approximately 370 feet east of its intersection with Ascot Drive from Rural Residential to Planned Development, subject to voluntarily proffered conditions. The Planning Commission considered the application and forwarded it to the Board of Supervisors with a recommendation of denial, and staff recommended denial of the application but suggested if approval was considered that the number of units be reduced to 56 units.

Mr. Burgett pointed out that the property was zoned Rural Residential and that it may not be rezoned in the future.

Discussion ensued over the zoning issues, increased traffic patterns, and the number of proposed units.

Chairman Wiggins called to order a public hearing on Application No. PD-14-02 which was duly advertised as required by law. Proposed Ordinance No. 02-10 is entitled:

AN ORDINANCE TO APPROVE A PLANNED DEVELOPMENT OF QUADRUPLEX HOMES ON HAMPTON HIGHWAY

Mr. Paul Garman, representing the applicant, appeared to answer any questions the Board may have regarding the proposed project and to ask the Board for its approval of a project geared toward providing living quarters for the County's senior citizens.

Mr. Burgett asked about the applicant's intentions to provide housing for senior citizens, and the possibility that young families with children might want to move into the project.

Mr. Garman explained that some of the proffers offered by Rainbrook Villas would not allow for amenities suitable to children.

Mrs. Noll inquired about the environmental impact of the project.

Mr. Steve Walls, Professional Wetlands Scientist, stated the environmental concerns of this project should be listed on the positive side rather than on the negative side. He stated the impact to wetlands had been totally avoided, and there would be a reduction in the pesticides and fertilizers that are normally associated with single-family housing. He elaborated on an RPA that will remain intact, and the 700-foot wide wetlands that could perform the water quality buffering functions and values that wetlands provide.

Discussion ensued pertaining to wetlands and the environmental impacts of the proposed project.

Mr. Joseph Haggerty, 403 Timberline Loop, stated if the population density was a problem, the County didn't have any control with single-family homes. He stated that 3.3 was an average figure, but it doesn't mean that six kids wouldn't be in every one of the houses which would really impact the schools.

Mrs. Edna Haggerty, 403 Timberline Loop, stated there is a need to have something between the hustle and bustle of families with kids, and seniors going to assisted living facilities or

nursing homes. She stated that Rainbrook Villas has filled that need for her, and she feels more of these types of projects are needed.

Ms. Mildred Insley-Schanz, 210 Timberline Loop, spoke in favor of the proposed Rainbrook Villas in the Shady Banks area. She stated she was the volunteer social director of the villas, and she explained the many activities and programs provided for the citizens.

Ms. Janice Meredith Wood, 239 Timberline Loop, stated she was born and raised in the Grafton area and was pleased to have returned to the area to live in Rainbrook Villas. She stated she felt the Villas of Shady Banks would be an asset to the County, and this type of community was desperately needed.

Mr. Elwood Bland, 516 Timberline Loop, spoke in favor of this type of senior community and encouraged the Board to support it. He stated he felt that the community would be enhanced by this type of addition.

Ms. Shirley Wallace, 47 Wrenn's Road, a co-owner in the subject property, presented a petition in favor of the proposed project and encouraged the Board to vote for approval.

Mr. Joseph Wallace, 113 West Woodland Road, also a co-owner of the subject property, asked for the Board's approval of the project to fill a need for senior citizens in the community.

Ms. Bonnie Singleton, 62 Tear Drop Lane, an adjacent property owner, spoke in opposition to the proposed project. She stated she was concerned with the flooding in the area, the wildlife that may be affected, and the effects on the adjacent wetlands.

Ms. Sandy Patterson, 128 Ponsonby Drive, spoke in opposition to the project, stating the view from her home was nice but the noise was loud. She stated that on Friday and Saturday nights the noise levels were tremendous coming from the Langley Speedway. She indicated she was also concerned about the safety of the residents, including the emergency vehicle response time, and the hazardous intersection on Magruder Boulevard.

Mr. Bill Cashman, representative of URS Corporation, indicated he had prepared the traffic study for the applicant and reported on his findings.

Meeting Recessed. At 11:30 p.m. Chairman Wiggins declared a short recess.

Meeting Reconvened. At 11:38 p.m. the meeting was reconvened in open session by order of the Chair.

Mr. Charles Newbaker, Surveyor, appeared to discuss the site design of the project and answer any of the Board's questions. He stated the design would satisfy all of the provisions of the Chesapeake Bay Act.

A discussion on drainage issues then took place.

Mr. Buddy Spencer, 1609 Calthrop Neck Road, one of the owners of Villa Development, thanked the citizens who came out and spoke on behalf of Rainbrook Villas. He elaborated on the need for more housing for the senior citizens in the County and asked for the Board's support on the subject project.

There being no one else present who wished to speak concerning the subject Ordinance, Chairman Wiggins closed the public hearing.

Mrs. Noll stated she felt the Board had a responsibility to all citizens of the County, including senior citizens and their well being, and that it was important that they are able to remain in the County in their later years.

Mr. Shepperd stated that this was a land management issue and that the citizens of this district were very sensitive to adding any more growth. He discussed safety, environmental concerns, zoning, and the load capacity on Route 134, which has already been exceeded. He stated that he had many senior citizens voice their opposition of the project. He noted that the land is zoned Rural Residential and has the potential to increase the population density. He felt if that was the goal of the Board, it could be done through the zoning process to establish zones in other areas that allow for a more even distribution of the population. His stated his concern was that this project would break the cap on the 80,000 build-out population figure.

Mr. Burgett stated the issue was that the land is zoned Rural Residential. He stated he was concerned over the number of units proposed per acre and whether the developer would sell the units to any qualified buyer and not just senior citizens. He stated he felt the Board should look at land in the future and identify the criteria for senior citizen use. He stated there were no guarantees that the development would have only senior citizens. Mr. Burgett stated he feels it is a great project, but he would not support multi-family housing on the subject parcel.

Mr. Zaremba agreed that a large segment of the County was made up of senior citizens, and he felt like this development should be allowed to go forward. He stated the Board was not obligated to stick to arbitrary procedures as the other County Boards and Commissions are obliged to stick to. He explained that the staff was obligated to take a look at the Comprehensive Plan or the Zoning Ordinance, and a recommendation should be made within those guidelines. He stated when a call is as close as the Planning Commission's 4-3 vote, the Board should exercise some leadership and let the chips fall where they may in terms of which side of the ledger we fall on with respect to this particular initiative. He stated that he would support the application.

Chairman Wiggins stated he was previously opposed to the application, but has since visited Rainbow Villas. He was able to see how satisfied the residents of Rainbow Villas were, which has resulted for him in a change of mind about the project. He explained some of the characteristics of the residents in the villas and recognized the need for this type of project. He stated he did not see any reason not to approve this project.

Mrs. Noll stated she felt the Board needed to discuss the staff's recommendation of the 56 units as opposed to the applicant's request for 92 units. She asked the applicant if another number could be substituted.

Mr. Spencer did not want to cut the number back, but suggested the number 84 in place of 92.

After discussion, the Board agreed with staff's recommendation of allowing 56 units to be built.

Mrs. Noll then moved the adoption of proposed Ordinance No. 02-10(R) which reads:

AN ORDINANCE TO APPROVE A PLANNED DEVELOPMENT OF QUADRUPLEX HOMES ON HAMPTON HIGHWAY

WHEREAS, Villa Development, LLC and The Villas on Shady Banks, LLC have submitted Application No. PD-14-02 seeking to amend the York County Zoning Map by reclassifying from RR (Rural Residential) to PD (Planned Development) approximately 63.8 acres located on the north side of Hampton Highway (Route 134) approximately 370 feet east of its intersection with Ascot Drive (Route 1676) and further identified as Assessor's Parcel Nos. 38A2-1-5, 6, 7, 8, and 9; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends denial of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 16th day of July, 2002, that Application No. PD-14-02 be, and it is hereby, approved subject to the following conditions:

1 General Layout, Design, and Density

a) A site plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance, shall be submitted to and approved by the Department of Environmental and Development Service, Division of Development and Compliance prior to the commencement of any land clearing or construction activities on the site. said site plan shall be in substantial conformance with the plan entitled, "The Villas at Shady Banks, Preliminary #6" prepared by The Sirine Group, Inc., and dated 5/20/2002 except as modified herein. Substantial deviation, as determined by the Zoning Administrator, from the general design and layout as submitted or amended herein shall require resubmission and approval in accordance with all applicable provisions as established by the York County Zoning Ordinance.

b) The layout and design of this development shall comply with the Planned Development regulations as provided in Section 24.1-360 of the York County Zoning Ordinance, except as modified herein.

c) The maximum number of residential units shall be 84.

d) Street trees at least 1-1/2 inches in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals along the interior road in the development. Street trees at least 1-1/2 inches in diameter shall be pro-

vided (or credited for existing trees) at no less than forty-foot (40') intervals in the median of the boulevard-type entrance on Hampton Highway.

2 Streets and Circulation

a) Roadway design and construction shall be in substantial conformance with the Development Plan. The design and construction of all streets shall adhere to the street and roadway standards established for public streets by the County and the Virginia Department of Transportation (VDOT). The applicant shall bear responsibility for installing all roadway improvements.

b) All streets shall be of a curb and gutter design; roll-top curb shall be permissible throughout the development.

c) In order to provide for safe and convenient pedestrian circulation, the project shall include a four-foot (4') wide sidewalk as shown on the concept plan.

d) Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.

e) A full-width right turn lane with a taper consistent with the standards of the Virginia Department of Transportation (VDOT) shall be constructed along Hampton Highway (Route 134) at the entrance to the development.

3 Utilities and Drainage

a) Public sanitary sewer service shall serve this development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.

b) A public water supply and fire protection system shall serve the development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and the Department of Fire and Life Safety in accordance with all applicable regulations and specifications. The applicant shall grant to the County or the City of Newport News all easements deemed necessary by the County for maintenance of such water lines.

c) The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County Administrator or his designated agent in consultation with VDOT and in accordance with applicable regulations and specifications. Any easements deemed necessary by the County for maintenance of the stormwater system shall be dedicated to the County; however, the County shall bear no responsibility for such maintenance.

d) The homeowners' association shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development.

4 Open Space and Recreation

a) The location and arrangement of open space shall be generally as depicted on the plan entitled "The Villas at Shady Banks, Preliminary #6" prepared by The Sirine Group, Inc. and dated 5/20/2002.

b) A minimum of 16.0 acres of open space shall be provided. Said open space may include water management facilities, environmentally sensitive areas, roadside buffers, and recreation space.

c) A minimum of 4.8 acres of recreation space shall be provided. Said recreation space shall be developed, at a minimum, with a clubhouse, swimming pool, natural area with a mulch trail and park-style benches, and a putting green and/or horseshoe pits as indicated on the master plan.

d) The recreation area and facilities designated shall be developed and available for use on or before the occupancy of the fortieth (40^{th}) unit or by the end of the fifth (5^{th}) year from the start of construction, whichever occurs first.

e) The location and manner of development for the recreation area shall be fully disclosed in plain language to all home purchasers in this development prior to closing.

f) All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.

g) All recreational services, facilities, and equipment shall be subject to approval by the Division of Parks and Recreation for their consistency with the applicant's proffered conditions and recreational requirements as listed in the Planned Development regulations in the Zoning Ordinance.

5 Environment

a) A Natural Resources Inventory, including a Major Water Quality Impact Assessment, prepared in accordance with the requirements set forth in Section 24.1-372(d) of the Zoning Ordinance, shall be submitted for review and approval concurrent with the site plan submission.

b) Prior to final plan approval, the applicant shall obtain all wetland permits required by federal and state regulations and submit copies of these permits, or evidence that such permits are unnecessary, to the Zoning Administrator.

6 Proffered Conditions

a) The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the proffer statement entitled, "Proposed Proffers by

Owner for Application for Property of the Villas on Shady Banks, L.L.C. and Villa Development, L.L.C.," received June 3, 2002, and signed by Cowles M. Spencer, except as modified herein.

7 Restrictive Covenants

a) Prior to final plan approval, the applicant shall submit restrictive covenants for review by the County Attorney for their consistency with the requirements of Section 24.1-497 of the Zoning Ordinance.

On roll call the vote was:

Yea: (3) Noll, Zaremba, Wiggins
Nay: (2) Burgett, Shepperd

MATTERS PRESENTED BY THE BOARD (Continued)

Mr. Burgett stated he had received a compliment on staff's swift site approval process, and he compared the County's process to other localities. He noted he had attended an Industrial Development Authority meeting, and he plans to attend the groundbreaking of the Lackey Clinic. He also reported on the Thomas Nelson Community College Board dinner and mentioned the wonderful activities at the County's 4th of July celebration.

Mrs. Noll stated she would not be able to attend the Lackey Clinic groundbreaking since she will be speaking at the Virginia Association of Planning Commissioners that morning. She discussed improving the transportation system in the area and reported on traffic at the Hampton Roads Bridge Tunnel that accounts for 90,000 to 110,000 vehicles per day. The bridge tunnel was designed for 75,000 vehicles per day.

CONSENT CALENDAR

Mr. Burgett asked that Item No. 13 be removed from the Consent Calendar.

Mrs. Noll then moved that the Consent Calendar be approved as amended, Item Nos. 11, 12, 14, 15, and 16 respectively.

On roll call the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 11. APPROVAL OF MINUTES

The minutes of the following meetings of the York County Board of Supervisors were approved:

June 4, 2002, Regular Meeting
June 11, 2002, Adjourned Meeting

June 18, 2002, Regular Meeting
June 25, 2002, Adjourned Meeting

Item No. 12. ANNUAL MEMORANDUM OF UNDERSTANDING FOR VIRGINIA COOPERATIVE EXTENSION: Resolution R02-133.

A RESOLUTION TO AUTHORIZE THE EXECUTION OF AN AGREEMENT TO PROVIDE FOR THE OPERATION OF THE VIRGINIA COOPERATIVE EXTENSION OFFICE FOR FY2002

WHEREAS, Virginia Cooperative Extension has maintained an office to provide service to York County citizens under a cost-sharing agreement which has been in effect since 1983; and

WHEREAS, the Board of Supervisors authorized funding for this activity in the FY2003 approved budget sufficient to continue participation in this program and to provide an adequate level of service to the citizens of York County.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16th day of July, 2002, that the County Administrator be, and he is hereby, authorized to execute for and on behalf of the Board, a Memorandum of Understanding with Virginia Cooperative Extension, including any necessary amendments thereto, that has been approved as to form by the County Attorney and which is substantially in the same form as that which was transmitted to the Board by report of the County Administrator dated June 12, 2002 for the provision of Virginia Cooperative Extension within the County.

Item No. 14. EXPRESSION OF APPRECIATION: DAVID REUBUSH: Resolution R02-141.

A RESOLUTION OF APPRECIATION FOR DAVID E. REUBUSH FOR HIS SERVICES AS A MEMBER OF THE YORK COUNTY TRANSPORTATION SAFETY COMMISSION

WHEREAS, David E. Reubush has served on the York County Transportation Safety Commission from March 20, 1986, through June 10, 2002, including six and one- half years as Chairman; and

WHEREAS, during his tenure on the Commission Mr. Reubush actively participated in numerous major projects, including the development of the County's Transportation Safety Plan in 1989, an update of that plan in 1992, the York County Sidewalk Plan in 1995, the Route 17 Corridor Master Plan in 1996, and the annual Major Accident Intersection Map; and

WHEREAS, for sixteen years Mr. Reubush has played an instrumental role in the accomplishments of the Transportation Safety Commission, which have been recognized with an Achievement Award from the Virginia Department of Motor Vehicles for the Outstanding Local Transportation Safety Commission Program for the year in District VII in 1987, an Award of Appreciation from the Virginia Department of Motor Vehicles for outstanding Highway Safety Programs and Services in Virginia in 1991, and an Achievement Award from the National Association of Counties (NACo) in 1995 for the Commission's Major Accident Intersection Map; and

WHEREAS, Mr. Reubush has unselfishly devoted countless hours in service to the County and its citizens, demonstrating wisdom, leadership, and an unwavering commitment to the improvement of transportation safety in York County and throughout Virginia; and

WHEREAS, Mr. Reubush is moving to James City County and therefore has resigned from the Commission effective June 10, 2002;

NOW, THERFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of July, 2002, that it does hereby sincerely commend and thank Mr. David E. Reubush for his sixteen years of service to the citizens of York County as a member of the York County Transportation Safety Commission.

BE IT FURTHER RESOLVED that the Board extends to Mr. Reubush its best wishes in all his future endeavors.

Item No. 15. PUBLIC SEWER EXTENSION AGREEMENT: TIDEMILL ESTATES: Resolution R02-130.

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS TIDEMILL ESTATES SECTION FOUR, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, Lotz Realty Company, Inc. has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve nine new residential lots; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be $16,875.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16th day of July, 2002, that the Board approves the extension of the County's public sewer system to serve the proposed development, Tidemill Estates Section Four, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Lotz Realty Company, Inc. for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 16. PUBLIC SEWER EXTENSION AGREEMENT: KING'S CREEK PLANTATION.

A RESOLUTION TO AUTHORIZE AN EXTENSION OF THE COUNTY'S SANITARY SEWER SYSTEM TO A PROPOSED DEVELOPMENT KNOWN AS KINGS CREEK PLANTATION PHASE 1-SPE, AND AUTHORIZING EXECUTION OF THE NECESSARY PUBLIC SEWER EXTENSION AGREEMENT

WHEREAS, Kings Creek Plantation, L.L.C. has requested that the County enter into a public sewer extension agreement pursuant to § 18.1-53 (b) of the York County Code to serve 58 new timeshare units; and

WHEREAS, the plan for the proposed project has been reviewed by the County; and

WHEREAS, prior to final approval of these plans and the initiation of any construction activity, it is necessary that a determination be made as to whether the Board will authorize the extension of the public sewer facilities of the County to serve the proposed development; and

WHEREAS, it has been determined that sufficient capacity exists in the County's existing sewer system to serve the proposed development, or will exist when the facilities proposed by the developer are constructed; and

WHEREAS, in accordance with the terms of Chapter 18.1 of the York County Code the total connection fee to be paid to the County for the proposed extension to serve this development has been determined to be $120,250.00;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16th day of July, 2002, that the Board approves the extension of the County's public sewer system to serve the proposed development, Kings Creek Plantation Phase 1-SPE, and that the County Administrator be, and he hereby is, authorized to execute a public sewer extension agreement with Kings Creek Plantation, L.L.C. for the proposed extension; such agreement to be approved as to form by the County Attorney.

Item No. 13. ARTS COMMISSION GRANT FUNDING: Proposed Resolution R02-88. (Removed from Consent Calendar

Mr. Burgett asked if This Century Gallery of Williamsburg was a private art gallery.

Ms. Kathy Hebert, Vice Chairman of the York County Arts Commission, affirmed it was a private organization, and that they show students' work from the County throughout the year, provide classes and locations to display art works in the area, and offer workshops for students.

Mr. Burgett expressed his concern that the County already funded the Jamestown/Yorktown Foundation.

Ms. Hebert explained the organization's procedure when a request for funding was received.

Mr. Burgett then asked about the Publick Times Chorus and how many school functions they perform during the year.

Ms. Hebert wasn't sure about the number of performances at schools, but stated they also perform at retirement centers and various other locations throughout the community.

Ms. Molly Nealer, Department of Community Services, explained that they perform at the Senior Center in lower York County, and also the Senior Center that represents James City County, Williamsburg, and York County, located in the upper end of the county.

Mr. Burgett stated his concerns about funding the Yorktown Arts Foundation when they have sold their building and may be leaving the County.

Ms. Hebert explained that when the grant request was made, the building had not been sold. The County was told the Foundation intended to find another building.

Mr. Burgett suggested the County keep the money until the Foundation gets moved and re-established.

Mr. Zaremba asked what the return was from the Institute for Dance located in Williamsburg.

Ms. Hebert explained that tickets had to be purchased, but that they do provide discounted tickets to student groups.

Mr. Burgett then moved the adoption of proposed Resolution R02-88 that reads:

A RESOLUTION TO APPROVE FY2003 COUNTY AND STATE FUNDING FOR LOCAL ARTS ORGANIZATIONS

WHEREAS, the Board of Supervisors appropriated $53,500 in support of local cultural arts organizations in the FY2003 budget and the County is expected to receive an estimated $5,000 grant from the Virginia Commission for the Arts to supplement the County's appropriations for the arts; and

WHEREAS, the York County Arts Commission was appointed by the Board of Supervisors to review funding requests from cultural arts organizations and to make recommendations to the Board concerning the distribution of budget appropriations to the arts; and

WHEREAS, the Arts Commission has undertaken a careful and thorough review of all applications from arts groups, in some cases interviewing and otherwise observing and interacting with these organizations; and

WHEREAS, the Arts Commission has completed its review of the funding requests for FY2003 and has developed recommendations for funding allocations for each organization using the total available arts-related funds contained in the approved FY2003 York County Budget; and

WHEREAS, allocations from grant funding from the Virginia Commission for the Arts, will be made to the Fifes and Drums of York Town, the Yorktown Arts Foundation, Celebrate Yorktown Committee, and Jamestown/Yorktown Foundation upon receipt of those funds from the Commonwealth;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 16th day of July, 2002, that the determination made by the York County Arts Commission be, and they hereby are, approved and that the following organizations receive funding in the following amounts under the York County Arts Commission Grant Program:

Art Song Of Williamsburg	$ 450	
Celebrate Yorktown Committee/Symphony	$ 1,450	
Celebrate Yorktown Committee/Concerts	$ 1,200	
Celebrate Yorktown Committee/Christmas	$ 1,100	
Colonial Service Board	$ 1,000	
Cultural Alliance	$ 400	
Faith For Living Youth Camp	$ 250	
Fifes & Drums of York Town	$ 8,200	
First Night of Williamsburg	$ 750	
Institute for Dance	$ 400	
JCC/Williamsburg Parks & Recreation	$ 600	
Jamestown/Yorktown Foundation	$ 4,900	
Peninsula Fine Art's Center	$ 300	
Publick Times Chorus		$ 1,800
Senior Center of York		$ 200
Stage Lights	$ 500	
Theatre IV	$ 2,500	
This Century Gallery of Williamsburg	$ 400	
Virginia Opera		$ 6,400
Virginia Shakespeare Festival		$ 2,500
Virginia Symphony	$ 3,000	
Watermen's Museum	$ 3,400	
Wednesday Morning Music Club	$ 550	
WHRO	$ 900	
Williamsburg Symphonia	$ 1,100	
Williamsburg Youth Orchestra	$ 1,300	
Yoder Preservation Trust, Inc.	$ 550	
York County Beautification	$ 1,100	
York County Children Services	$ 200	
Yorktown Chorale	$ 600	
York River Orchestra	$ 900	
Yorktown Arts Foundation	$ 7,000	
Young Audiences	$ 2,600	

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Burgett, Wiggins
Nay: (0)

Mr. McReynolds asked if it was the consensus of the Board that the $7,000 for the Yorktown Arts Foundation be withheld until they find a location.

By consensus of the Board, the $7,000 will be withheld until the Foundation has a home.

NEW BUSINESS

YVA APPROVAL: WATER STREET LANDING RESTAURANT

Mr. Carter made a presentation on proposed Resolution R02-146 to approve a proposed addition to the back of the Water Street Landing Restaurant located at 524 Water Street in Yorktown.

Mrs. Noll asked if the retaining wall would be properly engineered and if it was included in the resolution.

Mr. Carter stated those concerns would be covered by the site plan review.

Mrs. Noll then moved the adoption of proposed Resolution R02-146 which reads:

A RESOLUTION TO APPROVE A PROPOSED ADDITION TO THE BACK OF THE WATERSTREET LANDING RESTAURANT LOCATED AT 524 WATER STREET IN YORKTOWN

WHEREAS, Mr. Rick Tanner has submitted an application requesting permission to construct an addition on the back side of the existing Water Street located at 524 Water Street in Yorktown; and

WHEREAS, pursuant to Section 24.1-327(b)(3) of the York County Zoning Ordinance, such requests may be approved by the Board of Supervisors by resolution; and

WHEREAS, the proposed addition, which will house storage and a walk-in freezer and will help to improve restaurant operations, is compatible in design with the surrounding area;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 16th day of July, 2002, that the request of Rick Tanner on behalf of Water Street Landing Restaurant for the construction of a single-story addition to the back of the existing restaurant building located at 524 Water Street, as described in the County Administrator's report to the Board dated June 27, 2002, be, and it is hereby, approved.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Burgett, Shepperd, Wiggins
Nay: (0)

APPOINTMENT TO THE HAMPTON ROADS PLANNING DISTRICT COMMISSION

Mrs. Noll moved the adoption of proposed Resolution R02-137 which reads:

A RESOLUTION TO APPOINT THE CHIEF ADMINISTRATIVE OFFICER OF YORK COUNTY TO THE HAMPTON ROADS PLANNING DISTRICT COMMISSION

BE IT RESOLVED by the York County Board of Supervisors this the 16th day of July, 2002, that James O. McReynolds, York County Administrator, be, and he is hereby, appointed to the Hampton Roads Planning District Commission for a term of two years, such term to begin July 1, 2002, and expire June 30, 2004.

On roll call the vote was:

Yea: (5) Noll, Burgett, Shepperd, Zaremba, Wiggins
Nay: (0)

Meeting Adjourned. At 12:45 a.m. Mrs. Noll moved that the meeting be adjourned sine die.

On roll call the vote was:

Yea: (5) Burgett, Shepperd, Zaremba, Noll, Wiggins
Nay: (0)

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James O. McReynolds, Clerk
York County Board of Supervisors

Donald E. Wiggins, Chairman
York County Board of Supervisors